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—PRESENTED BY—

Prof. McLaughlin

Aug 1903

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56TH CONGRESS, }
2d Session. }

SENATE.

} Doc. No. 231,
Part 2.

COMPILED
OF
REPORTS
OF
COMMITTEE ON FOREIGN RELATIONS,
UNITED STATES SENATE,

1789-1901,

First Congress, First Session, to Fifty-sixth Congress, Second Session.

CLAIMS OF CITIZENS OF THE UNITED STATES
AGAINST FOREIGN GOVERNMENTS.

LA ABRA SILVER MINING COMPANY.

VOL. II.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1901.

IN THE SENATE OF THE UNITED STATES,

January 15, 1901

Resolved, That there be printed as a Senate document the Compilation of Reports of the Committee on Foreign Relations of the United States Senate from seventeen hundred and eighty-nine to nine hundred, prepared under the direction of the Committee on Foreign Relations, as authorized by the Act approved June sixth, nine hundred, entitled "An Act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, nine hundred, and for prior years, and for other purposes."

Attest:

CHARLES G. BENNETT,

Secretary

REPORTS OF COMMITTEE ON FOREIGN RELATIONS, UNITED STATES SENATE, 1789-1901, FIRST CONGRESS, FIRST SESSION, TO FIFTY-SIXTH CONGRESS, SECOND SESSION.

[Senate Report No. 2706, Fiftieth Congress, second session.]

IN THE SENATE OF THE UNITED STATES.

MARCH 1, 1889.—Ordered to be printed.

Mr. DOLPH, from the Committee on Foreign Relations, submitted the following

R E P O R T:

[To accompany bill S. 2632.]

The Committee on Foreign Relations, to whom was referred the bill (S. 2632) to amend and enlarge the fifth section of an act approved June 18, 1878, entitled "An act to provide for the distribution of the awards made under the convention between the United States of America and the Republic of Mexico, concluded on the 4th day of July, 1868," having had the same under consideration, respectfully report:

THE PROVISIONS OF THE BILL.

It is proposed in substance by the bill to direct a suit or suits to be brought by the Attorney-General of the United States, in the name of the United States, in the Court of Claims (jurisdiction being conferred upon the court to hear and determine the same) against La Abra Mining Silver Company and its assigns, of any portion of the award made by the United States and Mexican Mixed Commission under the convention between the United States and the Republic of Mexico, concluded on the 4th day of July, 1868, in respect of the claim of the said La Abra Company to determine whether the award was obtained as to the whole sum included therein, or as to any part thereof, by fraud, or false swearing, or other false or fraudulent practices on the part of said La Abra Company, its agents, attorneys, or assigns, with the right to either party to appeal from the final decision in any such suit to the Supreme Court of the United States; and in case it shall be finally adjudged in such suit that said award as to said company was based upon or obtained by false swearing, or other false and fraudulent practices of said company or its assigns, or by their procurement, to authorize the President to release the Government of Mexico from further payment thereof, and to return to the said Government any money paid by it on account of said award, remaining in the custody of the United States, to the extent the award is so determined fraudulent; and in case it shall be finally declared that said La Abra Silver Mining Company or its assigns are in justice and equity entitled to any part of said award that shall remain to be paid or distributed, to direct the Secretary of State to proceed to distribute the same to the persons entitled thereto.

THE QUESTIONS STATED.

The questions presented for the consideration of Congress by the bill are:

First. Whether the evidence presented by the Mexican Government to show that the award made by said mixed commission in respect of the claim of La Abra Company was procured by fraud, and the testimony taken by the committee, under the authority of resolutions of the Senate herein referred to, is of such a character as to require investigation by a competent tribunal to determine whether the United States in presenting the claim of La Abra Company to the mixed commission was not made the victim of fraudulent imposition.

Second. Whether Congress has the constitutional power to open the award and direct a suit to be brought to judicially determine, according to the principles of equity, whether the award, in whole or in part, was procured by fraud, in order that what the honor of the United States requires should be done in the premises may be done.

To determine the first of these questions requires a reference to the diplomatic and legislative history of the claim and a review of the evidence.

THE HISTORY OF THE CLAIM.

La Abra Silver Mining Company was incorporated and organized under the laws of the State of New York in 1865, with its principal office at the city of New York in said State.

The object of this incorporation was to work certain silver mines in the State of Durango, Mexico, and it prosecuted the business for which it was incorporated during portions of the years 1866 and 1867.

The Claims Commission, organized under the convention between the United States and Mexico, of July 4, 1868, rendered awards in favor of citizens of the United States for \$4,125,622.20, and in favor of citizens of Mexico for \$150,498.41. After deducting the awards to Mexican citizens, and making the proper allowance for differences in currency and coinage, there was due the United States from Mexico the sum of \$3,865,498.42. It appears from the report of the Secretary of State of February 28, 1888, that up to that date the Government of Mexico had paid to the Government of the United States on account of these awards the sum of \$3,495,293.61; and, as since that date another annual installment has been paid, the total amount received from Mexico is \$3,791,359.66, leaving a balance now remaining unpaid of \$74,138.76.

Among the awards in favor of the United States were those of La Abra Silver Mining Company for \$683,041.30, or, in American gold (in which coinage the payments are made), \$672,070.99, and of Benjamin Weil for \$487,810.68. The amount heretofore paid by Mexico on account of La Abra award is \$631,553.22. Out of the first five installments paid by Mexico there was distributed to the claimants of La Abra award the sum of \$240,683.06. The Secretary of State then, under an executive order, suspended further payments, and there are now retained by the State Department, on account of said award, eight installments, amounting to \$390,870.16. The award was rendered by the umpire December 27, 1875, and a motion on behalf of the Mexican Government for a rehearing was overruled by him October 20, 1876.

By the provisions of said convention the payment of the total sum of the awards due from Mexico was to be made in annual installments, and, following the usual precedents in such cases, Mr. Fish, then Secretary of State, in 1877, asked Congress for the necessary legislation

to enable him to adjust the awards with Mexico, and to make distribution to the respective claimants. The convention provided no method of distributing these awards, and it was necessary that Congress should provide by law for their payment into the hands of the persons entitled thereto. While a bill for this purpose was pending, the Mexican Government notified the Secretary of State that evidence, not within its knowledge or control before the awards were rendered, had been discovered, which, it was claimed, would establish the fact that the awards in the cases of La Abra Company and Benjamin Weil were procured by fraudulent impositions upon the commission and upon the Government of the United States, on the part of the claimants; and the Mexican minister presented the Department of State such evidence as he then claimed to possess, tending to show that said awards were procured by fraud.

The finality of the awards as between the two Governments was not denied by the Mexican Government, and the Mexican minister announced the intention of his Government to comply with the treaty by paying the installments as they became due.

The evidence presented by Mexico led to an examination of the cases by Congress. A bill to carry out the recommendations of Mr. Fish passed the House during the Forty-fourth Congress and was favorably reported in the Senate, but was recommitted to enable the committee to consider the complaints made by the Mexican Government as to the manner in which the awards in favor of La Abra Company and Weil were procured.

At the next session Mr. Davis, of Illinois, introduced a bill in the Senate which, with amendments, passed both houses, and was approved June 18, 1878. This act authorized the Secretary of State to make distribution to the claimants of the money received from Mexico on all the awards except those of La Abra Company and Weil. The fifth section of the act was as follows:

SEC. 5. And whereas the Government of Mexico has called the attention of the Government of the United States to the claims hereinafter named with a view to a rehearing: Therefore, *Be it enacted*, That the President of the United States be, and he is hereby, requested to investigate any charges of fraud presented by the Mexican Government as to the cases hereinafter named, and if he shall be of the opinion that the honor of the United States, the principles of public law or considerations of justice and equity, require that the awards in the cases of Benjamin Weil and La Abra Silver Mining Company, or either of them, should be opened and the cases retried, it shall be lawful for him to withhold payment of said awards, or either of them, until such case or cases shall be retried and decided in such manner as the Governments of the United States and Mexico may agree, or until Congress shall otherwise direct.

And in case of such retrial and decision, any moneys paid or to be paid by the Republic of Mexico in respect of said awards respectively shall be held to abide the event, and shall be disposed of accordingly; and the said present awards shall be set aside, modified, or affirmed, as may be determined on such retrial: *Provided*, That nothing herein shall be construed as an expression of any opinion of Congress in respect to the character of said claims, or either of them.

In accordance with the provisions of this section, the President (Mr. Hayes) caused an investigation to be made of the charges of fraud preferred by the Mexican Government, and Mr. Evarts, then Secretary of State, made a careful examination of the newly discovered evidence presented by Mexico, and submitted his conclusions thereon to the President August 12, 1879, to the effect:

That the honor of the United States does require that these two cases should be further investigated by the United States to ascertain whether this Government has been made the means of enforcing against a friendly power claims of her citizens based upon or exaggerated by fraud.

But was of the opinion that any agreement with Mexico for the opening of the awards would involve the admission by the United States that the results of the convention were not final and conclusive between the two Governments.

President Hayes adopted the views of Secretary Evarts, and in communicating his report to Congress recommended that legislation should be enacted providing for the further investigation of these claims by some domestic tribunal.

The Committee on Foreign Affairs (of the House) reported a bill June 9, 1880, to empower the Court of Claims to make such an investigation. On a bill of like character the Senate Committee on the Judiciary at the same session reported adversely, on the ground that if an investigation of the claims was to be had, it should be by means of a diplomatic agreement providing for a new international commission. Congress having adjourned without making any provision in reference to La Abra and Weil awards, President Hayes, in the absence of Secretary Evarts, directed the Assistant Secretary of State to distribute to the claimants the installments which had been received and were then undistributed.

August 2, 1880, the Mexican Government, through the Mexican legation in this city, notified Secretary Evarts of the intention of that Government to commence suits in equity in the United States courts to impeach and set aside the two awards; and on August 4 Mr. Evarts replied that he could not but regard the proposed action of Mexico as a departure from the line of policy theretofore inaugurated in the diplomatic correspondence, and as being in distinct contravention of the articles of the convention with regard to the finality of the awards of the Commission. Mr. Evarts' note was regarded by Mexico as a diplomatic interdiction of the proposed legal proceedings, and they were accordingly abandoned.

When President Arthur came into office he suspended further distribution of the money received from the Mexican Government on account of the two awards, negotiated a convention with Mexico for a rehearing of the cases by a joint commission, and sent it to the Senate.

While that convention was pending in the Senate, in December, 1882, John J. Key, as assignee of Benjamin Weil and La Abra Company, instituted mandamus proceedings in the supreme court of the District of Columbia against Mr. Frelinghuysen, Secretary of State, to compel him to distribute the installments of the awards that Mexico had paid to the United States which had been withheld by the claimants by direction of President Arthur. The case was appealed to the Supreme Court of the United States, and its decision dismissing the proceedings was rendered January 7, 1884. The judgment of the Supreme Court sustained the action of President Arthur in suspending distribution of the money received on account of said awards.

The treaty, which was pending in the Senate from July 20, 1882, till April 21, 1886, on the latter day failed to receive the required constitutional majority of two-thirds of the Senate, and left to Congress the duty reserved in the fifth section of the act of June 18, 1878, "to otherwise direct" what shall be done with the money received or to be paid to the United States under the award made in the claim of La Abra Company. On the 11th of May, 1886, President Cleveland sent a message to Congress transmitting a report from the Secretary of State, calling attention to the fifth section of the act above cited, and suggesting that the attention of Congress should be earnestly invoked to the consideration of the status of the Weil and La Abra claims, and the

duty of the Executive in regard thereto in the event of the adjournment of Congress without further action concerning them.

This committee, on July 7, 1876, submitted a report recommending the passage of Senate bill 2207, which was similar in its provisions to the bill under consideration, the concluding portion of which report was as follows:

This brief résumé of the correspondence between the two Governments shows that Mexico, while observing, in good faith, all her obligations under the convention, has earnestly and constantly urged upon the United States that these claims were fraudulent. This appeal to the spirit of justice can not be ignored, but should be met by a frank and open examination by our own courts of the facts presented by Mexico. These claimants have no vested rights growing out of these claims which entitle them to come between Mexico and the United States, and to demand the payment of any part of these awards that are the outgrowth of fraud and perjury.

The Forty-ninth Congress adjourned without final action on the bill and at the first session of the present Congress the subject was again brought to the attention of Congress by a special message from the President, which was sent to the Senate on the 5th of March last, in response to resolutions of the Senate, of December 21, 1887, and January 16, 1888, which were referred to this committee. This message was accompanied by a report from the Secretary of State, in which the condition of the funds paid by Mexico on account of the awards of the joint commission, and the executive and legislative stages of the history of La Abra and Weil claims, are stated in detail. The Secretary, after citing the conclusion of Secretary Evarts, "that the honor of the United States does require that these two cases should be further investigated by the United States, to ascertain whether this Government has been made the means of enforcing against a friendly power claims of our citizens based upon or exaggerated by fraud," and referring to the treaty concluded by Secretary Frelinghuysen with the Mexican envoy, for an international rehearing of the cases, uses this language:

It is fair to assume that the rejection by the Senate of the treaty signed by Mr. Frelinghuysen, for an international rehearing of the awards, was in no sense an expression of opinion adverse to their investigation, which Mr. Evarts had recommended. It is rather to be regarded as an approval of the opinion which he also expressed, that the investigation should, under the circumstances, be made by this Government for itself, as a matter affecting solely its own honor.

It is a remarkable fact that whenever, since the distribution of the Mexican fund was commenced, the deliberate judgment of the official authorized by Congress to make such distribution has been recorded upon the two awards in question, it has uniformly been to the effect that the evidences that the United States, in presenting the claims, had been made the victim of fraudulent imposition were of such a character as to require investigation by a competent tribunal, possessing appropriate powers for that purpose.

He then reviews the grounds upon which the claimants have insisted that the money paid by Mexico should be distributed to them, and states the question at issue as follows:

The sole question now presented for the decision of this Government is whether the United States will enforce an award upon which the gravest doubts have been cast by its own officers in opinions rendered under express legislative direction, until some competent investigation shall have shown such doubts to be unfounded, or until that branch of the Government competent to provide for such investigation shall have decided that there is no ground therefor.

He adds that the duty of the Government to refuse to enforce an inequitable and unconscionable award has been repeatedly maintained in the most authoritative manner, and cites a number of cases where awards were set aside by Congress, by the courts, and by the Executive, and shows their similarity to the Weil and La Abra cases, in that the money which the claimants seek to obtain is under the control of

the Government of the United States, and the demands for its distribution are demands against that Government. "From this point of view," he says, "the question is not international but domestic; and it is not less so because its decision touches the pecuniary interests of Mexico as well as the honor of the United States." In this connection he quotes the following language of Chief-Justice Waite, in delivering the judgment of the court in the case of *Frelinghuysen v. Key*, 110 U. S., 63:

International arbitration must always proceed on the principles of national honor and integrity. Claims presented and evidence submitted to such a tribunal must necessarily bear the impress of the entire good faith of the government from which they come, and it is not to be presumed that any government will for a moment allow itself knowingly to be made the instrument of wrong in any such proceeding. No technical rules of pleading as applied in municipal courts ought ever to be allowed to stand in the way of the national power to do what is right under all the circumstances. Every citizen who asks the intervention of his own government against another for the redress of his personal grievance must necessarily subject himself and his claim to these requirements of international comity.

As between the United States and the claimants, the honesty of the claims is always open to inquiry for the purpose of fair dealing with the government against which, through the United States, a claim has been made.

The Secretary further reports that upon the adjournment of the last Congress without action upon the bill pending in both houses to provide for the investigation of the two awards in question by the United States, the attorneys for the claimants at once applied for the distribution of the moneys paid by Mexico on the awards and in his hands. Desiring to avoid further delay the Department of State, in pursuance of the act of March 3, 1887, entitled "An act to provide for the bringing of suits against the Government of the United States, sought the consent of the claimants in the Weil and La Abra cases to an investigation and decision of the allegations of fraud in relation thereto by the Court of Claims, but the attorneys in behalf of their clients declined the proffered investigation.

In concluding his report, to the end that the claims may be finally disposed of, he suggests to the President "that a recommendation be made to Congress to take action to provide expressly for the reference of the claims in question to the Court of Claims or such other court as may be deemed proper, in order that a competent investigation of the charges of fraud may be made."

The President, in transmitting this report to the Senate, urged Congress to "speedily signify its final judgment upon the awards referred to, and make the direction contemplated by the act of 1878, in default of which the money now on hand applicable to such awards now remains undistributed."

Pending the consideration in the committee of the bill accompanying this report and of the President's message, the authenticity of the newly-discovered evidence presented by Mexico, and especially of certain written letters and press-copies of letters of the officers and agents of La Abra Company contained in a letter-press copy-book purporting to be the letter-press copy-book of said company, being questioned by counsel for La Abra Company, the committee thought proper to ask the Senate for authority to make an investigation respecting the claim, and upon their request the following resolutions were adopted by the Senate:

IN THE SENATE OF THE UNITED STATES,

August 30, 1888.

Resolved, That the Committee on Foreign Relations have leave to require the attendance of witnesses before said committee, or a subcommittee thereof, to give evi-

dence under oath respecting the claim of La Abra Silver Mining Company against the Government of Mexico.

And said committee or subcommittee shall have the power to administer oaths to such witnesses.

And the expenses of their attendance and other necessary expenses in the execution of this order shall be paid out of the funds appropriated for the contingent expenses of the Senate, on certificates issued by the chairman of said committee or subcommittee.

Resolved (2). That counsel for or against said claimants shall be authorized to appear before said committee or subcommittee and examine and cross-examine any witnesses under the authority of this resolution.

The investigation under the authority of the foregoing resolutions was begun on the 24th of September, 1888, and has extended at various intervals up to the 27th ultimo.

The journal of the subcommittee designated to make the investigation and the testimony taken before it are appended to this report.

THE TESTIMONY.

The testimony taken by the committee is sufficient to establish beyond question the authenticity of the letter-press copy-book of La Abra Company presented to the Secretary of State by the Mexican Government. It was identified before the committee by one of the superintendents of the company, Col. Julius A. De Lagnel, as the press copy-book in use at the mines in Tayoltita, Mexico, during the time he was superintendent of the company's works, and he identified all the press copies of the letters signed by himself. The press copies of letters signed by Charles H. Exall, the superintendent who succeeded De Lagnel, and the press copies of the letters of James Granger and certain statements of his handwriting in the same book, as also the original letters of David J. Garth, the treasurer of the company, and of Charles H. Exall, were duly proved by competent witnesses to be genuine.

The letter book and original letters submitted by Mexico constitute the most important part of the newly discovered evidence upon which it relies to establish its charge of fraud and perjury in the procurement of the award.

D. J. Garth, the former treasurer of La Abra Company, and the agent of the company who conducted its business in New York and the company's correspondence with the superintendents of the company's works in the mines at Tayoltita during the operations of the company there, in his testimony before the committee, admitted the receipt of the originals of nearly all of the letters addressed to him, written by De Lagnel and Exall, and copied in the press copy-book, together with the genuineness of the letters purporting to have been written by himself. The letters in the press copy-books appear to have been written and copied in the ordinary course of business, and the committee are satisfied beyond a doubt that they and the original letters of D. J. Garth and C. H. Exall produced by the Mexican Government, so far as they go, contain a correct history of the company's transactions at Tayoltita.

In the opinion of the committee, the correspondence between the company's superintendents and agents at the mines in Mexico and the managing agent of the company in New York, accompanying this report, is sufficient, considered alone, to show the whole claim of the company to be fraudulent, and the claimant's testimony before the Mixed Commission, so far as it tended to fix the responsibility for the company's loss upon the Mexican Government, to have been rank perjury to show that the company had abandoned its mines because they did not pay for working; that the officers and agents of the

company in New York had refused to furnish any more money to the superintendents at the mines, and that the company was bankrupt.

The idea of making a claim against the Mexican Government by the company, judging from this correspondence, appears to have been conceived long after the abandonment of the mines by the company, to have been a gross fraud in its inception, to have been based upon fraudulent allegations supported by false swearing and manufactured testimony; and it is impossible, in the face of the correspondence covering the period when the company was making preparations to work its mines in Mexico and while they were being worked, to conceive that the officers and agents of the company in New York were not active participants in the fraud.

A duly certified copy of the record of the case of La Abra Silver Mining Company against Mexico before the Joint Commission under the treaty of July 4, 1868, including all the evidence upon which the award was passed, has been furnished by the Department of State and is printed with the testimony taken by the committee.

The following is a brief review of the documentary and oral evidence submitted to the committee, compared with the allegations contained in the memorial of La Abra Company, presented to the Mixed Commission. That company represented in its memorial before the Joint Commission that it purchased in 1865, in Tayoltita, State of Durango, Mexico, certain silver mines of great value and extraordinary richness; that it sent intelligent agents to Mexico and made heavy and judicious expenditures on its mining property, to wit, over \$300,000; that it had extracted a large amount of the richest ore; that it was subjected to threats, robberies, seizure and confiscation by the authorities of mule trains and supplies, forced loans, onerous taxes, imprisonment of its superintendent, murder of one of its officials, and other acts of violence, persecution, and interference by the Mexican civil and military authorities and people; that on account of these persecutions, outrages, and insecurity it was impossible to work the mines, and it was compelled to abandon them (in March, 1868); that in consequence of the forced abandonment the mines and buildings, of the value of \$1,000,000, and the silver ore extracted, amounting to 1,000 tons, of the value of \$500,000, were wholly lost to the company; that, if permitted to work the mines, the clear annual profits would have been \$1,000,000; and that by the forced abandonment the company was utterly ruined. Damages were claimed to the amount of \$3,030,000, and the award was rendered for \$683,041.30.

At the time of the alleged forced abandonment no complaint whatever was made to the Department of State at Washington, to the Mexican Government, nor to the United States minister at the City of Mexico. It appears from the evidence before the committee that after the last superintendent returned to New York, in May, 1868, and made his report, the officers and directors of La Abra Mining Company took no steps to protect or recover possession of their property in Mexico; sent no agent there to look after or inquire into its condition, and did nothing whatever to maintain their rights. The claims convention with Mexico of July 4, 1868, was proclaimed February 1, 1869, and the memorial of La Abra Company was not filed before the Commission till June 14, 1870, more than two years after the abandonment of the mines.

In the opinion of the committee it is shown that *there was no forced abandonment of the mines*. Exall, the last superintendent, was the only witness before the Commission who pretended to give the circumstances of the forced abandonment of his own knowledge. Exall's

deposition is completely overthrown by his own letters. Months before he left Tayoltita he informed the officers of the company in New York that the mines were not yielding any ores that it would pay to reduce, that he was out of funds and pressed on all sides with debts, and that unless relieved by remittances of money from New York he would be compelled on that account to abandon the property. Finally, January 24, 1868, he wrote to the treasurer in New York that unless he received money by the steamer of the next month, he would be compelled to come to New York and lay the embarrassed situation of the affairs before the company. It also appears that about this time Exall talked publicly concerning his intended visit to New York. The original and press copy of the following letter to the single remaining employé at the mines has been produced before the committee:

TAYOLTITA, Feb'y 21st, 1868.

MR. JAMES GRANGER:

SIR: As circumstances are of such a nature as to compel me to leave for San Francisco, and probably for New York, to inquire into the intentions of this company, I place in your hands the care and charge of the affairs of the La Abra S. M. Co., together with its property.

You are invested hereby with all power confided to me, of course, acting in all your transactions with an eye to the interests of the company.

This will, to you, should occasion require it, be ample evidence of the right possessed by you to act in their behalf.

Very respectfully,

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

The date fixed by Exall, in his deposition before the Commission, of his expulsion from the mines was on or about March 20, 1868. An original letter of Exall's was produced in evidence before the committee, dated at Mazatlan (the sea-port, 150 miles from the mines), March 15, 1868, which shows that he had been at that place some days when the letter was written, and that he had left the property and mines in the quiet possession of Granger, his assistant; that he was on his way to San Francisco and New York to obtain money from the company to pay the overdue salary of himself and his assistant, Granger, and that he expected to return. It was also proved before the committee that Exall met the United States consul when he passed through Mazatlan, and that he made no complaint to him and said nothing to him about any trouble with the authorities or people at the mines.

Copies of other letters of Exall, found in the letter-press copy-book, show that Granger was still in peaceable possession August 12, 1868, undisturbed by the authorities, and witnesses have testified before the committee that he continued to occupy the premises owned by La Abra Company for a considerable time thereafter, and that, receiving no aid or remittances of money from the company in New York, he proceeded to sell off such of the movable property as he could so dispose of, to pay his own claims against the company, and that he at last voluntarily abandoned the property. It is also shown that the Mexican authorities did not claim to exercise any control or authority over the property of the company after Exall's departure, and that since Granger ceased to occupy the premises they have been taken possession of by individual miners, under the Mexican law of *denouncement*, as abandoned property.

The main allegation in the petition of La Abra Company presented by the Mixed Commission, to wit, that the company was dispossessed of its property by the forcible interference of the Mexican authorities,

is disproved and shown to have been wholly false, and this mainly by correspondence of the company's own officers and agents; and it appears by the testimony taken by the committee that the abandonment of the property and the failure of the company were wholly due to the poverty of the mines and the consequent financial embarrassment of the company.

The history of the company, as disclosed by the testimony, in brief is as follows: The attention of certain gentlemen in New York was directed to La Abra mine, in the State of Durango, Mexico, which was claimed to have produced fabulous wealth in the time of the Spanish domination, and which, although in recent years abandoned, it was asserted would again produce great wealth if a projected tunnel was completed. A syndicate was formed in New York, and two of its members accompanied the "promoters" of La Abra sale to Mexico to inspect the mine. Neither of the two members of the syndicate possessed any knowledge of mining, and the experts who participated in the negotiation were all connected with the selling parties. At the mines the representatives of the syndicate were shown very rich specimens of ores, assaying as high as \$1,300 per ton, and as a result of their investigation they made a purchase on the spot of La Abra mine, paying for the same \$22,000 in stock of the company. They also bought of a Spaniard and a Mexican a number of other mines at the same place, and paid for them \$50,000 in gold. These mines were represented to be at that time producing very rich ores, and the syndicate were shown by the owners "stacks of silver * * * some tons * * * of pure silver," the supposed recent product of these latter mines.

The representatives of the syndicate returned to New York, and La Abra Company was incorporated, and proceeded to make preparations to work the mines on a large scale with the improved American methods. The Mexican machinery and improvements were removed. New machinery was bought in California, and new buildings were erected for the enlarged operations of the company. Owing to the remoteness and mountainous character of the locality, and the disturbed condition of the country occasioned by the French war then in progress, this work was greatly delayed and unexpectedly expensive. While it was in progress a large amount of ore was extracted from the mines; and when the mill was finished and the ores began to be reduced to silver, it was found that they were of a very low grade and would not pay for the cost of mining and reduction.

The company in New York had assessed the stock to its full value and collected the assessments, and when the stockholders refused to pay further assessments it for a time resorted to loans. Finally its credit was exhausted, its drafts protested, a heavy judgment was obtained against it, and it became hopelessly bankrupt. All this occurred some months before the date of the alleged forced abandonment of the mines. The treasurer of the company notified the last superintendent that the stockholders would pay no more assessments, that no more money could be borrowed, that the company could send no further aid, and that he (the superintendent) must depend entirely upon the mines for resources to pay the debts and expenses of the company and protect the property.

Ten months before the final abandonment of the mines the company in New York had been informed by its agent at the mines of the poor quality of the ores, and that it had been greatly deceived as to the value of the mines. Before the abandonment of the mines the superintendent wrote several letters to the treasurer and managing agent in New York

informing him that the ores would not pay to reduce, and that, unless money was sent from New York, he would be compelled to abandon the property. And, finally, after his urgent appeals for money had been refused, being without means to meet expenses and greatly embarrassed by the debts of the company, he voluntarily left the mines in charge of his assistant and went without molestation to New York to endeavor to secure aid from the directors of the company. A meeting of the directors was called, at which Exall made his report, after which the whole enterprise was abandoned and came to an end. The treasurer and managing director testified before the committee that there was at that time no intention to present a claim against Mexico.

The company filed the annual report required by the incorporation laws of New York, January 20, 1868, and no further annual report was filed until January 20, 1877, being the January following the final decision of the umpire upon the award.

Witnesses from the immediate locality of the mines formerly owned by La Abra Company appeared before the committee and testified that since their abandonment by La Abra Company they have been lying idle the greater part of the time, and have been open to denouncement under the Mexican mining laws by any person who chose to work them; that some of them have been denounced and worked for short intervals, but always with unprofitable results, and that they produce such a low grade of ore that it does not pay to work them.

As to the alleged hostile acts of the Mexican authorities and people: The claimant's memorial, besides charging various specific acts, contains general charges of acts of violence, persecutions, and outrages by the Mexican authorities and people, which are alleged to have so alarmed the employés of the company and to have so interfered with the working of the mines that it became necessary to abandon them. If these allegations had any foundation in fact, some statements would undoubtedly be found in the letter-book and letters constituting the correspondence between the superintendent at the mines and the company's agents in New York to sustain them; on the contrary, this correspondence shows that from the very beginning of the company's operations it was specially favored by the authorities. Bartholow, the first superintendent, reported to the New York office in a letter, a copy of which is found in the press-copy book, that owing to the war between the Mexican Republicans and the French, and the consequent interruption of business, he would not have been able to secure the transportation of the machinery and supplies except for the military protection and permits granted him by the Republican authorities. He also, as it appears, resorted to the expedient of placing the hired mule trains in charge of Americans to secure their exemption from impressment.

Prerogues or special privileges and waivers of forfeitures, as to the working of the mines, were several times granted to the company by the authorities during the period covered by its operations. Suits instituted in the courts to protect the company's titles and rights were decided in its favor. Special indulgence was shown to the company respecting the exhibition and record of its title. The letters of the superintendents found in the letter-book show conclusively that whatever difficulties occurred with the officials arose mainly from the inability of the company to meet its financial obligations. The superintendent wrote to the New York office, October 6, 1867:

There is no difficulty about the authorities, boundaries, or anything else concerning the mines or hacienda, provided there is money on hand, and money must be sent.

One of the specific acts alleged to establish the charge of hostility on the part of the Mexican authorities is the imprisonment of the superintendent, Exall. In his deposition before the Commission Exall states that he was arrested by the local judge; that without any form of trial or knowledge of his offense he was sentenced to two months' imprisonment, fined \$50, and thrust into prison.

In a letter which Exall wrote to the prefect at San Dimas, the official superior of the local judge, a copy of which is found in the letter-book, all the details as to the causes of the arrest are set forth. His own account as there given contradicts his deposition, and shows that his detention must have been of a trivial character. The evidence does not show that he was actually imprisoned. It was an arrest under which he was detained for an hour or so, and was not of sufficient consequence to be mentioned in his correspondence with the New York office, and does not appear to have interfered with his duties as superintendent.

The action of the local officials, Mora and Soto, is relied upon by the claimants to establish interference by the authorities in the working of the mines, and their orders to the superintendent were produced before the Commission. These orders show upon their face that they were occasioned by an alleged failure of the superintendent to observe his contract with the miners, by which they were to be paid two-thirds of their wages in goods from the company's store and one-third in cash. The failure to make the cash payment led to the interference of the local magistrate, which was authorized by the Mexican mining laws.

The last of the orders or letters of the judge to the superintendent is dated July 10, 1867. In the letter-book is found the answer of Superintendent Exall, dated July 11, showing that he was at fault in the matter in controversy, and that he had made a peaceable and satisfactory arrangement with the workmen. He closed his letter by expressing the hope "that with this there may be the most friendly understanding about this affair." The matter was reported to the treasurer in New York in a letter by Exall, dated July 13, in which he describes it as a "a little spat with the officials which was gotten through without much trouble," adding, referring to the workmen, "we can do better with them when they are a little hungry." Subsequent letters, from Exall to the New York office, show that the company remained in quiet possession of the mines for at least one year after these orders, and that they had no influence in bringing about the abandonment of the property.

Another allegation to show the hostility to the company is that large quantities of ores were carried off by force. The company in its memorial to the Commission averred that—

Large quantities of ore were taken, * * * the employés being deterred by threats from resisting such spoliation.

And this is supported by Exall and others, who assert that the ores taken by the Mexicans were very rich. The statements on this point are very general, no dates or names of parties being given. The letter-book, which evidently contains a minute account of everything of importance that occurred at the mines, does not contain a reference to a single event of this character. On the contrary, the letters it contains show that the miners and the people were peaceable and easily controlled, and gave the company no trouble, and this is confirmed by witnesses who testified before the committee. There was no incentive to steal the ores, as it is shown that the ores taken from the mines were so poor that it would not pay to reduce them.

Another specification in the claimants' memorial is that "the authorities repeatedly seized mule trains of the company loaded with provisions and appropriated the same to their use." The superintendents—Bartholow and Exall—in their depositions before the Commission swore that the company owned large trains of mules engaged in transporting its machinery and supplies from Mazatlan, the sea-port, to the mines, and that these trains were repeatedly seized and confiscated by the Mexican troops. One witness estimates the company's losses on this account at from \$75,000 to \$100,000 and another at \$25,000. But there are only two seizures which are specified with any certainty by the witnesses before the Joint Commission—the one when George Scott, an employé, was robbed of \$1,200, and the other when William Grove was murdered.

It appears from the letters, copies of which are found in the testimony of witnesses taken before the committee, that the company never owned any mule trains, but that all its transportation was conducted by hiring mule trains owned by Mexicans. When Bartholow, the first superintendent, turned over the mines and property to his successor, the company only possessed 12 mules. A minute account of the robbery of Scott and the murder of Grove is contained in a letter, found in the letter-book, from Superintendent Bartholow to the treasurer of the company in New York, from which it appears that they were both traveling alone, and neither had charge of, or was in company with, mule trains, and nowhere in the whole correspondence is any reference made made to the loss of any mule train owned by the company.

The murder of Grove is thus described in the claimant's memorial :

Things finally got to such a pass, that one of the personnel of the company, in charge of one of its trains, was openly killed by the Liberal forces, and the train seized, and that was made boast of by Mexican officials, etc.

This murder was reported by the superintendent to the New York office, with all the detailed circumstances attending it, in two letters, dated March 7 and April 10, 1866, copies of which are found in the letter-book. In these letters it is stated that Grove was traveling alone; that he lost his life by his own imprudence in revealing the fact that he had in his possession a large sum of money; that he was killed by one of the company's own employés, and that the authorities arrested, tried, and executed the murderer with commendable promptness.

Prominence was given by the claimants before the Commission to a forced loan of \$1,200, alleged to have been collected by a Mexican, Colonel Valdespino, from Colonel De Lagnel when he was superintendent, and it was also charged that \$3,000 or \$4,000 of illegal taxes were exacted while Bartholow was superintendent. The full correspondence of Bartholow with the Mexican tax-collector and General Corona is found in the letter-book, and in inclosing copies to the treasurer in New York he says :

The result was, instead of paying the amount of \$3,000 or \$4,000 as was demanded, we only paid about \$30.

The facts as to the forced loan of \$1,200 are also fully set forth in the copies found in the letter-book. Colonel De Lagnel, the superintendent, wrote the day after he received the notice, July 28, 1866, to the military commander, Valdespino, and also to the prefect of the town, remonstrating against the levy, and informed them that he had no money with which to pay it, and sent, for the use of the soldiers, *four pieces of cotton cloth* as a token of good-will; and that was the end of the affair.

Colonel De Lagnel was examined as a witness before the committee

upon this subject and confirmed the statement concerning the matter appearing in the correspondence in the letter-book.

The foregoing review of the testimony shows that every material allegation made by the La Abra Company before the Mixed Commission tending to fix the responsibility upon the Mexican Government for the abandonment of its property in Mexico is disproved by the testimony taken by the committee.

The assertion of the claimants that the letter-book and original letters of the officers and agents of La Abra Company were in possession of Mexico, and might have been produced at the trial before the Commission, is not proved. Colonel De Lagnel, one of the superintendents at the mines, testified before the committee that the letter-book was left at the mines with the other books and papers of the company when he transferred the charge of affairs to Exall, the superintendent who succeeded him. Exall's letters, after he left the mines and went to New York, show that the books and papers were placed in charge of Granger, his assistant. Two years after the abandonment Granger produced and delivered to the agent of the company sent out to Mexico to collect testimony to establish its claim, the only original records or papers of the company ever filed by it before the Claims Commission, and these papers Granger declared, in his deposition before the Commission, came into his possession as clerk of the company, and had not up to that date (May 14, 1870) passed out of his possession. The Mexican minister has stated to Secretary Bayard, in an official communication, that the letter-book of La Abra Company and the original letters of the treasurer, Garth, and of the superintendent, Exall, were delivered by Granger to the Mexican Government in December, 1877, or two years after the award had been rendered.

It has already been stated that \$240,683.06, being five installments on La Abra award, have been paid by the Department of State to the claimants. The president and treasurer of the company testified before the committee that the whole of this sum has been consumed in paying the expenses of prosecuting the claim, and that the stockholders of the company have as yet received nothing, nor has anything been paid on the indebtedness of the company. It also appears from their testimony that a considerable proportion of the installments not yet distributed would be required to discharge the obligations incurred in the prosecution of the claim.

In the opinion of the committee, if the testimony were far less satisfactory than it is, to show the fraudulent character of La Abra award, and were sufficient only to create grave doubts as to the substantial integrity of the claim and render it probable that a judicial investigation would establish its fraudulent character, the honor of the United States would require a further judicial investigation of the claim by this Government.

This brings us to a consideration of the second question involved in this measure, which is, **HAS CONGRESS POWER TO REOPEN THE AWARD?**

If it shall be judicially determined in the suit authorized by the bill under consideration to be brought that the award made by the Mixed Commission in respect of the claim of La Abra Company was obtained by fraud and false swearing, what will be the duty of the United States Government in regard to the payments to become due from the Government of Mexico and the money which has heretofore been paid by that Government on account of said award and not heretofore distributed to the claimants?

There can be but one answer to this question. It is, if Congress has

the power to do so, to release the Mexican Government from the payment of future installments and to return to that Government the money still under control of this Government.

As to the power of Congress to re-open La Abra award: It is clear from the decision of the umpire, Sir Edward Thornton, in La Abra and Weil awards that he took it for granted that power existed in the Government of the United States to set aside the award or relieve Mexico from the results of fraud or perjury, if they should thereafter be shown to have been practiced by the Commission. The following is quoted from his decisions:

In the case No. 477, "*Benj. Weil vs. Mexico*," the agent of Mexico has produced circumstantial evidence which, if not refuted by the claimant, would certainly contribute to the suspicion that perjury has been committed, *and that the whole claim is a fraud*. For the reason already given, it is not in the power of the umpire to take that evidence into consideration, but if perjury shall be proved hereafter no one would rejoice more than the umpire himself *that his decision should be reversed*, and that justice should be done.

And in referring to the newly discovered evidence in La Abra claim, Sir Edward said:

He (the umpire) doubts whether the Government of either (country) would insist upon the payment of claims founded upon perjury. (H. Ex. Doc. 103, 48th Cong., 1st Sess., p. 128.)

In the case of *La Abra Company vs. Frelinghuysen* (110 U. S.) the Supreme Court discusses the question of the finality of the award and the power of the Government (so long as the money is within its control) to inquire into the integrity of the claim, as between itself and the claimants, its own citizens, Chief-Justice Waite, in delivering the opinion of the court, held:

There is no doubt that the provisions of the convention (of 1866) as to the conclusiveness of the awards are as strong as language can make them. . . . But this is to be construed as language used in a compact of two nations "for the adjustment of the claims of the citizens of either . . . against the other," entered into "to increase the friendly feeling between" republics, and "so to strengthen the system and principles of republican government on the American continent." No nation treats with a citizen of another nation except through his Government. The treaty, when made, represents a compact between the Governments, and each Government holds the other responsible for everything done by their respective citizens under it. The citizens of the United States having claims against Mexico were not parties to this convention. . . . The presentation by a citizen of a fraudulent claim or false testimony for reference to the Commission was an imposition on his own Government, and if that Government afterwards discovered that it had in this way been made an instrument of wrong towards a friendly power *it would be not only its right, but its duty, to repudiate the act and make reparation* as far as possible for the consequences of its neglect, if any there had been. International arbitration must always proceed on the principles of national honor and integrity. Claims presented and evidence submitted to such a tribunal must necessarily bear the impress of the entire good faith of the Government from which they come, and it is not to be presumed that any Government will for a moment allow itself knowingly to be made the instrument of wrong in any such proceeding. No technical rules of pleading, as applied in municipal courts, ought ever to be allowed to stand in the way of the national power *to do what is right under all circumstances*. . . . The United States, when they assumed the responsibility of presenting the claims of their citizens to Mexico for payment, entered into no contract obligations with the claimants to assume their frauds and to collect on their account all that, by their imposition of false testimony, might be given in the awards of the Commission. As between the United States and the claimants, *the honesty of the claims is always open to inquiry for the purpose of fair dealing with the Government against which, through the United States, a claim has been made*.

An examination of the action of Congress respecting claims adjudicated by virtue of international conventions will show that Congress has not regarded awards rendered on such claims as final and beyond its control. Within the last thirty years our Government has repeat

edly re-opened awards of this character, which have been rendered in accordance with the provisions of conventions containing stipulations making them final and conclusive between the parties to the convention. To quote counsel:

To accomplish the annulment or revision of the awards, almost every method of procedure known to modern jurisprudence or diplomatic practice has been resorted to by our Government to protect the honor of the nation or do justice to claimants. These procedures may be classified as follows:

First. By a resubmission of the cases on which awards had been rendered to a new international commission, as under the conventions with Colombia and Venezuela.

Second. By an independent resort, through bills in equity, to the established domestic tribunals of the country, as in the Gardiner case under the treaty with Mexico of 1848, or in the Lazare case under the agreement with Hayti of 1884.

Third. By resubmission, through an act of Congress, to a special tribunal, as the Court of Claims, in the Atocha case under the Mexican treaty of 1848, or the "Caldera" case under the Chinese convention of 1858.

Fourth. By reference, through an act of Congress, to the Executive, clothing the Attorney-General with quasi-judicial functions, as in the case of Nott & Co. under the Chinese treaty of 1858.

Fifth. By a direct return of the money to the foreign government by the independent action of the Secretary of State and by act of Congress, without any judicial re-examination or any hearing afforded the claimant, as in the "Caroline" case.

This committee, in its report made at the first session of the Forty-ninth Congress upon the bill (S. 2207) relating to the Benjamin Weil claim, discussing the power of Congress to re-open the award in that case, said:

The Committee on Foreign Relations are satisfied that there is no impediment of law or policy in the way of Congress to prevent the full examination of this award to Benjamin Weil in our own courts, and that the evidence presented to Congress to impeach the claim, both as to fraud and perjury, is of so convincing a nature as to make it our duty to our own country to require that this should be done.

The method of procedure contemplated by the bill reported by the committee is sustained by a clear precedent in the legislative and judicial records of the country, known as the Gardiner case. By the treaty of 1848 the United States released Mexico from all claims of American citizens and assumed their payment to an amount not exceeding \$3,250,000, and provided, by article 15, that "a board of commissioners shall be established by the Government of the United States whose awards shall be final and conclusive." Before this Commission George A. Gardiner obtained an award for \$428,750, which amount was paid to him or his assignees May 16, 1851. Soon after the payment of the award charges began to be made that the claim was fraudulent, and these having been brought to the attention of both houses of Congress, the Senate, on the 26th of February, 1852, appointed a committee to investigate the same, with power to send for persons and papers; and the House also appointed a like committee August 24, 1852.

The Senate committee at once proceeded to a thorough examination of the fraud, sent a special commission to Mexico, brought before its own body a large number of witnesses, and after two years' investigation, in which it was established that the award had been obtained by forged documents and false swearing, the committee made its final report to the Senate March 28, 1854. On March 6, 1854, a resolution was adopted by the House, directing the Judiciary Committee to inquire into the propriety of taking legal proceedings to recover the money paid on the award; and, August 3, 1854, this committee submitted a resolution, which was adopted, requesting the President "to institute proceedings in law or equity against all such agents, attorneys, and confederates as may have assisted in prosecuting 'Gardiner's claim,' in order to test their liability to refund the amounts paid them . . . out of the award made by said commissioners to said Gardiner."

Meanwhile, however, the fraud had been made so apparent by the investigation set on foot by the Senate that the Law Department of the Government had taken action, without waiting for the request of the legislative branch. Gardiner was arrested and finally sentenced to ten years' imprisonment, but committed suicide soon after conviction. Bills were filed against Gardiner and his bankers, in whose hands some of the funds were found, in the United States circuit courts in Washington and New York; injunctions obtained in July, 1852, and decrees rendered in favor of the United States, March 29, 1856, in Washington, and June 14, 1859, in New York, to the effect "that said award be and the same is hereby in all things reversed and annulled." On these decrees some \$250,000 were recovered and paid back into the

Treasury. It does not appear that the treaty stipulation as to the "final and conclusive" character of the awards was at any time interposed as an objection to the action of Congress or the judicial proceedings. On the contrary, the fraud being made public, all branches of the Government, the legislative, the executive, and the courts, exerted all their powers to bring Gardiner to justice and to recover the money paid on his fraudulent claim.

The House Committee on Foreign Affairs, in a report made by Representative, now Senator, Daniel, at the first session of the Forty-ninth Congress, upon the bill (H. R. 8122) concerning La Abra claim, and similar in its provisions to the bill under consideration, although reporting against the bill, maintained the power of Congress to re-open the award, as follows:

HAS CONGRESS THE CONSTITUTIONAL POWER TO RE-OPEN THE AWARD AND ORDER A NEW TRIAL.

We have no doubt that Congress may waive the benefits of the treaty with Mexico and re-open the case decided in favor of La Abra Company. Sir Edward Thornton took such power for granted as an attribute of our national sovereignty. The existence of such power is sustained by a number of precedents, and to a certain extent it has already been exercised by Congress in the act of 1878 suspending payment of the sums awarded, and of which the present bill is amendatory. The President assumes and the Secretary of State asserts it, and in *Key v. Frelinghuysen* the Supreme Court affirmed it.

The minority of the committee, who reported in favor of the passage of the bill, upon this question said:

We hold that an examination of the legislative and diplomatic history of this country will show that the United States, both in its dealings with other Governments and its own citizens, has never regarded the awards of commissions or final adjudications of claims as irrevocable where the honor of the nation was involved, and in many cases they have been set aside on behalf of claimants. One of the best known is that of the Venezuela Claims Commission, respecting which Congress has repeatedly taken action, and where only recently the whole work of the Commission was annulled on the express recommendation of Congress. The awards under the Mexican treaty of 1848 were twice set aside, once by the courts in the Gardiner claim and once by direct act of Congress in the Atocha claim. (13 Stat., 595; 16 Stat., 633.) In the interest of rejected claimants Congress re-opened two of the awards of the Commission under Chinese claims treaty of 1858. (15 Stat., 440; 20 Stat., 171.) In the case of the *Caroline* the Secretary of State returned to Brazil money which had been paid after a diplomatic settlement, against the protest of the claimant, and Congress appropriated a large sum to re-imburse Brazil for moneys paid the United States representative, but which never reached the Treasury. (18 Stat., 70.)

In the present case there is a concurrence of sentiment on the part of the three departments of the Government—legislative, executive, and judicial—as to the power to legislate on the subject. The jurisdiction to legislate respecting the awards of an international tribunal was fully discussed in Congress when the act of June 18, 1878, suspending the distribution of the Weil and La Abra awards, was pending. It will be seen by reference to the speeches of Hon. Benjamin Wilson, member of Congress from West Virginia, now Assistant Attorney-General, and others (Cong. Record, vol. 7, part 4, pp. 4104-'5-'6), that the arguments and citations now made use of by the claimants were then urged upon the House. Notwithstanding it was then contended that Congress had no jurisdiction to legislate respecting a retrial of these cases, the act of June 18, 1878, was passed, requesting the President to investigate the charges of fraud, and providing that "the said present awards shall be *set aside, modified, or affirmed*, as may be determined on said retrial." Congress, by the passage of that act, assumed full authority to control these awards, even to the extent of providing that, in the contingency of no retrial being had, the President should have the power to withhold the money, "*until Congress shall otherwise direct*;" thereby reserving to itself the duty of finally determining what disposition should be made of the money paid by Mexico on these awards.

President Hayes and Secretary Evarts held that Congress had "plenary authority in the matter." In accordance with the act of 1878, Secretary Evarts examined the evidence of fraud in the Weil and La Abra cases as submitted to him by Mexico, and he found "that the honor of the United States does require that these two cases should be further investigated by the United States." But he said: "The authority for such an investigation must proceed from Congress. I would advise, therefore,

that the proofs and the conclusions you [the President] shall come to thereon, if adverse to the immediate payment on these awards of the installments received from Mexico, be laid before Congress for the exercise of their plenary authority in the matter." And President Hayes thereupon transmitted Secretary Evart's recommendation to Congress for their action. (See Message, H. Ex. Doc. 103, p. 740.)

President Cleveland and Secretary Bayard have clearly assumed that in the present status of the cases Congress has power to legislate in respect to them. Secretary Bayard, in his communication to the President of May 6 last, after reciting the history of the Weil and La Abra claims, says: "It is within the province of the legislative branch of this Government now to renew the history of the proceedings, legislative, executive, and judicial, connected with the two claims." And he closes as follows: "I suggest that the attention of Congress should be earnestly invoked to the consideration of the present status of these claims referred to, and the duty of the Executive under an existing treaty, to which the force and effect of paramount law is given by the Constitution in the event of the adjournment of the two houses without further action in reference thereto." (H. Ex. Doc. 274, p. 284.) And in accordance with the suggestion of the Secretary of State the President submitted the subject to Congress by his message of May 11 last. (Doc. 274, p. 280.)

There can be no significance whatever in the President's message and the Secretary's letter if Congress is not clothed with power to legislate upon this subject.

But the Supreme Court has removed all doubt upon this point in its decision in the cases of *Key v. Frelinghuysen* (Doc. 274, pp. 171-5). The Chief-Justice, in referring to the request of Secretary Evarts to Congress for legislation to enable him to pursue the investigation of the cases, says:

"The report of Mr. Evarts can not be read without leaving the conviction that if the means had been afforded, the inquiries which Congress asked for would have been further prosecuted."

This plainly implied the power of Congress to act upon the request. But the court is still more explicit, as follows:

"The presentation by a citizen of a fraudulent claim or false testimony for reference to the Commission was an imposition on his own Government, and if that Government afterwards discovered that it had in this way been made an instrument of wrong towards a friendly power, it would be not only its right, but its duty, to repudiate the act and make reparation as far as possible for the consequences of its neglect, if any there had been. International arbitration must always proceed on the principles of national honor and integrity. Claims presented and evidence submitted to such a tribunal must necessarily bear the impress of the entire good faith of the Government from which they come, and it is not to be presumed that any Government will for a moment allow itself knowingly to be made the instrument of wrong in any such proceedings. No technical rules of pleading as applied in municipal courts ought ever to be allowed to stand in the way of the national power to do what is right under all the circumstances. Every citizen who asks the intervention of his own Government against another for the redress of his personal grievances must necessarily subject himself and his claim to these requirements of international comity.

The United States when they assumed the responsibility of presenting the claims of their citizens to Mexico for payment, entered into no contract obligations with the claimants to assume their frauds and to collect on their account all that, by their imposition of false testimony, might be given in the awards of the Commission. As between the United States and the claimants, the honesty of the claims is always open to inquiry for the purposes of fair dealing with the Government against which, through the United States, a claim has been made."

From this review it is indisputably established that Congress has full power to legislate upon the subject.

It thus appears that the power of Congress to re-open La Abra award and to direct a suit to be brought to judicially determine whether or not it was procured by fraud has been affirmed by successive Secretaries of State, assumed by Congress in the passage of the act of June 18, 1878, expressly declared by committees of both houses of Congress, and substantially held to exist by the highest judicial tribunal of this Government.

The committee are of the opinion that Congress has power to do what is proposed to be done by the bill under consideration, and recommends its passage with amendments.

APPENDIX.

THE LA ABRA SILVER MINING COMPANY.

TESTIMONY TAKEN BY A SUBCOMMITTEE (CONSISTING OF SENATORS MORGAN, DOLPH, AND BROWN), OF THE COMMITTEE ON FOREIGN RELATIONS, UNDER THE RESOLUTION OF THE SENATE OF AUGUST 30, 1888.

IN THE SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., September 24, 1888.

The committee met pursuant to call. Present: Senators Morgan (chairman), Dolph, and Brown, and Messrs. J. G. McDonald, Samuel Shellabarger, J. M. Wilson, and John N. Staples, of counsel, and Sumner Stow Ely, secretary of the La Abra Silver Mining Company, and Hon. John W. Foster, and Robert B. Lines.

The CHAIRMAN (Senator Morgan). Gentlemen, we have had a consultation of the subcommittee this morning, and we have agreed that we would invite, under the resolution of the Senate, the counsel for and against the La Abra Silver Mining Company's claim, to be present at the examination of witnesses. I will read the resolution:

IN THE SENATE OF THE UNITED STATES,
August 30, 1888.

Resolved, That the Committee on Foreign Relations have leave to require the attendance of witnesses before said committee, or a subcommittee thereof, to give evidence under oath respecting the claim of La Abra Silver Mining Company against the Government of Mexico.

And said committee or subcommittee shall have the power to administer oaths to such witnesses.

And the expenses of their attendance and other necessary expenses in the execution of this order shall be paid out of the funds appropriated for the contingent expenses of the Senate, on certificates issued by the chairman of said committee or subcommittee.

Resolved (2). That counsel for or against said claimants shall be authorized to appear before said committee or subcommittee and examine and cross-examine any witnesses under the authority of this resolution.

Attest:

ANSON G. MCCOOK,
Secretary.

This subcommittee have, in conformity with that resolution, invited counsel for both parties, that is the counsel for the claim and counsel against the claim, to be present at this examination, and we desire that you should, in a general way, take charge of the examination of the witnesses produced here. We think that any objection that may be stated to points sought to be drawn out as to relevancy and legal character of the evidence in the course of the examination should be submitted to the committee, and we would reserve, of course, the decision upon that or make it as we go along perhaps. The committee will, of course, in-

terpose to prevent any questions being asked that we think not germane to the subject, and will also, as occasion may offer, ask any questions we see proper in the course of the examination.

Here is a book [exhibiting it] that was sent to the committee by the Secretary of State. It was deposited in the State Department—

Mr. SHELLABARGER. Before you enter, Mr. Chairman, if you please, upon the introduction of any testimony, permit me to make a statement and present a paper to the committee. May I do so now?

The CHAIRMAN. What does it relate to?

Mr. SHELLABARGER. It is in the nature of a protest.

The CHAIRMAN. Have you got it written?

Mr. SHELLABARGER. Yes, it is written.

The CHAIRMAN. You can file it with the committee, and we will consider it.

Senator BROWN. Let us hear it read.

The CHAIRMAN. My only objection to its being read was to save time. You may read it.

Mr. SHELLABARGER read as follows:

[Shellabarger & Wilson, attorneys-at-law, rooms 30, 31, 32, and 33 Kellogg Building, Washington, D. C.

WASHINGTON CITY, D. C., September 20, 1888.

To the chairman of the Senate Committee on Foreign Relations and the subcommittee of said committee appointed to investigate La Abra award:

GENTLEMEN: We to-day received a letter, of which the following is a copy:

"UNITED STATES SENATE, COMMITTEE ON FOREIGN RELATIONS,
"Washington, D. C., September 19, 1888.

"GENTLEMEN: I am directed by the subcommittee to advise you that they will meet on Friday morning next (September 21), at 10 a. m., at the committee-room, to take testimony in regard to the La Abra Silver Mining Company.

"Yours, truly,

"E. J. BABCOCK,
"Clerk.

"Messrs. SHELLABARGER & WILSON."

Understanding, as we do, that this testimony is to be taken pursuant to the resolution ordering an investigation of La Abra award, passed by the Senate on the 30th day of April, 1888, we desire, on behalf of said La Abra Company and of its assigns, to submit to the committee, and place on the records thereof, the following statement: If the proposed investigation to which the above communication alludes is not resorted to for the purpose of affecting, or for the purpose of its results being used to affect or impair the finality of the award in favor of said company, made by Sir Edward Thornton on the 27th day of December, 1875, then we have no interest in the investigation to which the above note alludes, and do not care to participate in such investigation, and would not do so if we could be so advised. But if, as we suppose, the object of said investigation is to set aside said award, or impair its finality as established by the treaty under which the award was made, then we hereby desire to present to the committee, and file with it, for the purpose of having the same placed upon the records of the committee, as aforesaid, our very respectful but earnest and emphatic protest against the investigation and the said objects thereof.

It is quite unnecessary here to repeat what has been so often placed upon the public records of the country, to wit, the grounds upon which La Abra Company denies the justice and the legality of any and all attempts to impeach or invalidate said award; and especially the gross injustice involved in attempting to force upon the said company, at this time, a trial of the merits of the claim, which was established by said award. Some of those grounds are that—

(1) The Senate and Congress have no jurisdiction of the subject-matter of the validity and binding force of the award.

(2) That the treaty-making power of the United States, being the only power, if any, which has such jurisdiction, has exercised its jurisdiction in regard to the matter of setting aside the award, and has refused to set the same aside; and this action of the treaty-making power is conclusive upon all other departments of the Government as to the point of the validity, finality, and binding force of the award.

(3) That even were there jurisdiction in the Senate or Congress to open up the award and set the same aside, yet to do so now when it is known to the Senate that it is impossible, owing to their death, for the claimant to get any material one of the American witnesses upon whose testimony the said award was in a large part based, and that it is impracticable to secure for the present proposed investigation any of the Mexican witnesses upon whose testimony, in favor of the claimant, the said award was in part based, can not be other than the merest travesty upon the administration of justice.

(4) That there is no sufficient showing made in support of the demand for such new trial; that the said award was not justified by ample and trustworthy evidence, such as, by the rules of law, justify any tribunal in disregarding the award.

We therefore make this protest, and give notice that any participation which La Abra or its representatives or assigns may have in said investigation does not waive their right to insist upon the finality of said award, and their right to insist that they shall not be bound or affected by any conclusion which said proposed investigation may reach; and that the said company and its assigns will not be so bound, and that their presence at, and their participation in, the investigation is only resorted to because of their respect for the Senate.

Very respectfully,

J. G. McDONALD,
SAMUEL SHELLABARGER,
J. M. WILSON,
JOHN N. STAPLES,
Of Counsel.

SUMNER STOW ELY,
Secretary of La Abra Silver Mining Company.

The CHAIRMAN. Do you desire that to go in the record?

Mr. SHELLABARGER. Yes, sir.

The CHAIRMAN. We will consider it. Just put it on file.

Mr. SHELLABARGER. Now, of course, Senators, as you can readily see, we should be careful in regard to this matter, not to do or seem to do anything that would be a waiver of the rights which the award secures, and hence our anxiety to be careful in that regard, and especially so in view of the facts stated in the protest, that it is absolutely true that we are now here to-day powerless so far as testimony is concerned. No matter what the strength or merit of our proof was at the day of the award, to-day we are literally without ability to produce one single material witness that was relied upon in the recovery. It is now twenty odd years since the events happened about which testimony must be called, if we are to go back to the original merits of the claim. We can not do it. Our men are dead. We can not get witnesses from Mexico; and if we could, with the hostile feeling against us we would have very little hope of proving the truth of the matter by Mexican witnesses.

And there is one other matter that is suggested to me by my associates that I wish very earnestly and respectfully to present to the committee, that is our desire to know whether Mexico is represented here by counsel. If so, I think our inclination as now advised, unless some new light is thrown upon the matter by suggestions from the committee, is to retire from the investigation now. If Mexico is not to be represented, if it is to be *ex parte* in the sense that Mexico has no counsel here we would like parties on the other side representing somebody to say whether or not they appear to represent Mexico, or if we can not be informed as to that of course we will have to conduct ourselves as best we can. But we do not want to appear here I think at all if this investigation is *ex parte* in the sense that Mexico is not here represented.

The CHAIRMAN. The investigation which the subcommittee is conducting under the order of the Senate and the order of the full Committee of Foreign Relations is one simply of examination to ascertain, as I understand, whether or not it is the duty of Congress to order

this money to be paid over to the La Abra Silver Mining Company or make some other disposition of it, or have some investigation in a court of a more formal character than this can possibly be upon the real character of this award, whether it was obtained by fraud or perjury, or whether it was obtained upon reliable testimony. The appearance of counsel upon such an investigation as this could not be construed by anybody, sensibly at least, as a waiver of any right whatever or a committal to the slightest extent in the justice of the claim or the propriety of the inquiry that we are conducting, so that nothing of that sort can possibly enter into this investigation. The Senate would never consider that the La Abra Silver Mining Company, by making appearance here, was in anywise compromised in respect of any of its rights, technical or actual. The committee, under the resolution of the Senate, which requires that counsel shall be present if they desire to be present in the examination and cross-examination of witnesses, felt it to be their duty to invite gentlemen who stand in the relation of attorneys to the Mexican Government, which is a party in equitable interest in this matter, at least thinks that it has some right about it, and so we have invited the gentlemen on both sides of the question to be present so as to give them all a fair opportunity.

Senator BROWN. But we have understood that Mr. Foster and his associates represent the Mexican Government.

The CHAIRMAN. I am not aware of that fact.

Mr. McDONALD. I understand that Mr. Foster and Mr. Lines do not claim to represent the Mexican Government, and I see in the investigation of the House committee that they were here representing opposition to this claim, but not for the Mexican Government. Now, if they are representatives of the Mexican Government we would like to know it. We would like to know what capacity they are in.

The CHAIRMAN. I have understood that Mr. Foster and Mr. Lines have been representing the Mexican Government in resisting the payment of this claim.

Mr. FOSTER. I am prepared to make a statement.

The CHAIRMAN. Very well.

Mr. FOSTER. Senator McDonald refers to an investigation which was had by the House committee, or rather an examination of this question by the House committee under a message from the President at the last Congress. I understand that the present investigation is of altogether a different character. The present committee have obtained authority to call before them witnesses and papers. The former committee had no such power given it. Mexico's interest in this investigation is this: She recognizes that this is a domestic investigation by Congress, but she has proof of fraud and perjury, alleging that this award was obtained by fraud and perjury. Upon the invitation of the committee we are present this morning to sustain, as far as we can, that allegation by our presence and, if possible, maintain the position which Mexico has assumed on this question, so that you may have the benefit of whatever information or assistance we can give you in establishing that claim of fraud and perjury. I think that is a sufficient answer to the gentleman as to our position here to-day; we do upon the invitation of the committee and with the consent of the State Department appear here to represent Mexico in this investigation.

While I am on my feet I want to say one word in relation to what Judge Shellabarger has stated accompanying his protest. We have nothing to say in regard to that protest. It is a matter for this committee to determine for themselves as to the scope of their power in

this investigation. But I want to make this remark in reference to the statement made by Judge Shellabarger to the effect that they are here to-day, twenty years after this trial, when all their material witnesses are dead—

Mr. SHELLABARGER. Not after the trial.

Mr. FOSTER. After the event.

Mr. McDONALD. It is fifteen years after the award was made.

Mr. FOSTER. And that, therefore, it is a great injustice to re-open this case. I want to call the attention of the committee to the fact that this award was made in November, 1875.

Mr. McDONALD. September 27, 1875.

Mr. FOSTER. Soon after, in 1877, the Mexican Government presented these charges of fraud and perjury, and in 1878 submitted the evidence upon which they relied to sustain those charges of fraud and perjury. All the material witnesses were alive at that time, and Mexico was anxious that an investigation should be had then, and the only reason why an investigation was not had then was because the claimants and their attorneys interposed objections to an investigation. It is not the fault of Mexico that an investigation did not take place at that time. We have been ready from that time to the present, and we are glad that even at this late day we have the opportunity to make good the charge that Mexico has made of fraud and perjury in this case.

The CHAIRMAN. The arguments as to the charges of fraud and perjury the committee do not feel obliged to consider, and I propose now to go on with the examination of the witnesses.

Senator DOLPH. Our authority is simply to examine witnesses. I do not see that this resolution contemplates anything else.

Senator BROWN. I think the usual rule in such cases is that counsel should be permitted to file protests.

The CHAIRMAN. I have no objection to that, but I do not want argument to be elaborated here when we have no power to make a decision upon it.

Mr. SHELLABARGER. There is a very good reply to the statement made by General Foster, which I would really like to make now, as he has had his say about that, and that is the courts have been opened to Mexico and she has been invited to go into the courts, but she has not done so.

Mr. LINES. The Secretary of State replied to that that it was a violation of the treaty obligations.

The CHAIRMAN. The committee understand what is of record in this matter. A bill was prepared and Mr. Evarts refused to allow it to be filed.

Mr. STAPLES. So I understand the scope of the committee is simply to take testimony without making any recommendation at all.

The CHAIRMAN. We may make our report. We have free speech in the committee.

Mr. STAPLES. Well, I want to understand whether it was simply to take testimony or to make a report.

The CHAIRMAN. Our present intention is to take testimony and lay before the full committee what we arrive at, and probably express our opinions upon its general merits when we come before the committee. Now, gentlemen, if you have a witness present please call him and I will swear him.

Mr. McDONALD. The records of this subcommittee will show that Mexico appeared by Mr. Foster and Mr. Lines, and the LaAbra Company by Mr. McDonald, Mr. Shellabarger, Mr. Wilson, and Mr. Staples.

The CHAIRMAN. The record will show precisely the facts that exist. I do not know that they could be intensified by any explanations here or modified either.

Mr. McDONALD. That is all right.

The CHAIRMAN. Who is your witness?

Mr. FOSTER. We ask that Colonel de Lagnel be examined.

STATEMENT OF JULIUS A. De LAGNEL.

JULIUS A. DE LAGNEL sworn and examined.

By Mr. FOSTER:

Q. Please state your name, residence, and occupation.—A. At this time?

Q. Yes.—A. My name is Julius Adolphus de Lagnel. I reside in Alexandria, Va.; am at present without any fixed occupation, and live upon the little means I have. My age is sixty-two, nearly; passed sixty-one.

Q. What has been your occupation in the past, briefly?—A. From 1847 until 1861 I was an officer of the Second Artillery, U. S. Army. From the summer of 1861 until April, 1865, I served the Confederate States. Early in 1866—I think it was January—I was introduced to Mr. David J. Garth and recommended to him for a position, and was with the La Abra Company from early in 1866 to the spring of 1867. I think it was about September, or early fall of 1868, until the spring of 1870 I was in the employ of Marshal O. Roberts, of New York, as purser on a steamer between New York and Fernandina, Fla. Then, in the fall of 1870, I was sent by Mr. Allen McLain, president of the Pacific Mail Company, to California.

Q. From where?—A. From New York, and remained in their company as purser on one of their China steamers until the summer, nearly, of 1880; I think it was June, 1880, that I left. Since then I have been residing in Alexandria continuously.

Q. During your service with the Pacific Mail Steamship Company where were you; what were your whereabouts?—A. I was four times a year in the city of San Francisco, and four times each year, about, in China and Japan. The intermediate time was spent upon the ocean on the trip.

Q. What was your position in the employ of the La Abra Silver Mining Company?—A. I was sent out as superintendent.

Q. And remained as such superintendent?—A. From the time that I arrived in April, 1866, until about the same time in the following year, 1867.

Q. As superintendent of the La Abra Mining Company, state whether you had charge of the property and books of the company at the mine.—A. Upon arrival General Bartholow turned over everything to me in the shape of books and property, and I was recognized as in charge until the time I left.

Q. Who was General Bartholow?—A. General Bartholow was the former superintendent.

Q. Whom you relieved?—A. Yes, sir.

Q. (Handing a press copy-book to witness). State whether you recognize that book: and, if so, what is it?—A. That is the letter-book that was turned over to me by General Bartholow at Tayoltita, in the state of Durango, in the spring of 1866.

By the CHAIRMAN:

Q. That was the name of the village?—A. That is the village; yes, sir.

By Mr. FOSTER:

Q. Where the mines are located?—A. Yes; only the mines are some distance on the mountain, but Tayoltita was a little pueblo. The hacienda had a special name. The little town itself, if you could call it a town, Tayoltita, is a short distance above.

By the CHAIRMAN:

Q. Just a small place of business, I suppose, connected with the mining interests?—A. Yes; a few houses.

By Mr. FOSTER:

Q. To the front of this book is attached a deposition. Whose deposition do you recognize that to be?

Mr. STAPLES. We object to the introduction of that deposition. The witness is on the stand, it is his own deposition, and there are certain questions in that deposition and answers which are objectionable and not competent, and we do not want that to go in as evidence.

Mr. FOSTER. I have no objection to be governed by the wish of the committee. My object was to save time, because it examines in detail all the pages of the letter-book and all that, and it is in print, but I will take up the examination if it is desired.

The CHAIRMAN. I suppose your purpose is to identify the book as being one to which the witness had formerly deposed?

Mr. FOSTER. And the deposition identifies all the pages in the book.

By Senator BROWN:

Q. What is the date of the deposition?—A. The 2d of December, 1878.

Senator DOLPH. As counsel are present and propose to cross-examine, I think the fair way would be to have an oral examination covering the ground now.

The CHAIRMAN. Very good.

Mr. FOSTER. Then I will recall that question.

Senator DOLPH. I do not think there is any objection to identifying the deposition.

Mr. FOSTER. Well, gentlemen will have an opportunity to cross-examine and bring out all the points again.

The CHAIRMAN. I suppose the committee will not exclude much from the record that has any relevancy to the case.

Mr. STAPLES. That is not part of the record, though.

The CHAIRMAN. I mean from our record.

Mr. LINES. I suppose he might identify the deposition—the fact that he made the deposition.

Mr. STAPLES. He identifies a certain book, he says, as a book he had as superintendent.

The CHAIRMAN. Well, I suppose there is no harm to prove that he swore to it once before.

Mr. STAPLES. Not at all, but that deposition contains other matter besides this.

By Mr. FOSTER (to the witness):

Q. Is that deposition your deposition?—A. You do not object to my looking at the signature?

The CHAIRMAN. Oh, no.

The WITNESS. That is my signature.

By Mr. FOSTER:

Q. Did you make that deposition?—A. That is my signature.

Q. Who was your commissioner, do you recollect?—A. I think his name was Sawyer. I recollect the gentleman who went with me, Mr. Heydenfeldt, Judge Heydenfeldt's son.

Mr. STAPLES. What is your object, Mr. Foster, in proving that book?

Mr. FOSTER. I do not know that it is necessary to explain it.

Mr. STAPLES. I know, but if you will tell us what your object is, we may agree to let it go in without objection.

Mr. FOSTER. As I have already stated, my object was to save the time of the committee.

The CHAIRMAN. This deposition came here through the State Department, having been filed there by the Government of Mexico, I suppose. I have not looked it over, but I suppose it is *ex parte*, is it not, Mr. Foster?

Mr. FOSTER. Yes.

Mr. STAPLES. Then the proposition of the gentleman, therefore, is to introduce an *ex parte* affidavit in evidence when the witness himself is present and can testify himself.

Mr. LINES. Well, let us ask whether he swore to certain things before.

Mr. STAPLES. Well, you prove it as a whole, and there are objectionable things in that deposition that I do not propose to let in.

Mr. FOSTER. The committee can say whether it is proper to go in.

Mr. STAPLES. Of course.

The CHAIRMAN. Complaint has been made here in the protest that there has been too much lapse of time in this case, possibly too much delay. The fact that this subject was taken up by the Government of Mexico, as I infer it was from that deposition, and the evidence was taken in this way before a notary public, would have probably some tendency to show that that Government at least was active in trying to lay before the Congress of the United States or before the Department of State the facts as they were understood, but that deposition was not taken by authority of any resolution of either House of Congress, or, as I am informed—I have not read it except in print—I have seen it before I suppose—

Senator BROWN. Where was it taken?

The CHAIRMAN. San Francisco. But I should think the witness would have a right to say that he swore to that state of facts before the notary public without its being evidence, and if his statement now contains the same facts, of course we would have no need for that deposition, except to show that that matter had been investigated, and that his statements were made at a time when his memory was fresh and he would have a right to refer to it to refresh his memory. Do you offer the deposition in evidence, General Foster?

Mr. FOSTER. My question now was, whose deposition is it?

The CHAIRMAN. That is as far as you go now?

Mr. FOSTER. I propose to have him recognize that as the deposition given by him in San Francisco, and I propose to follow that by another question.

The CHAIRMAN. I think you can proceed with your examination.

Senator BROWN. I think the witness has a right to identify that as his deposition.

Mr. STAPLES. We do not object to that at all.

The CHAIRMAN. That is as far as it goes at present—to identify it.

By Mr. FOSTER (to the witness):

Q. Answer that. Do you identify that as your deposition?—A. Excuse me, I have not read it over. It is in manuscript. I can not answer. That is my signature. There may be fifty leaves put in or left out.

The CHAIRMAN. Well, just look through it and see.

The WITNESS (after examining the paper). Yes, sir; it is my deposition.

By the CHAIRMAN:

Q. Is that the same book to which your deposition was attached at the time you gave it?—A. I did not see it attached in this form. If you will permit me I will tell you—

Mr. FOSTER. The Senator asks is that the same book?

A. This is the same book that was presented to me in the court-room in San Francisco. I recognize the letters. I recognize Mr. Garth's letters in his handwriting.

Q. For what purpose did you use that book while you were superintendent of the La Abra Mining Company?—A. That book was supposed to contain letters relating to the business of the hacienda there to home parties or to others who had interest.

Q. Press copies of the letters?

By the CHAIRMAN:

Q. The book contains press copies?—A. These are press copies of letters taken, written there to the home office or persons having business relations with the hacienda.

By Mr. FOSTER:

Q. Will you examine the letters from pages 69 to 153, inclusive, signed J. A. de Lagnel, and state by whom those letters, of which they are copies, were written?—A. (Examining the book.) Do you want to know which letters I recognize as mine?

Q. I want to know if the letters signed J. A. de Lagnel, from page 69 to 153, are yours. By whom are they written? Take them in lump, and if there are any you have doubt about, probably the shortest way is to refer to them. Take it between those pages with such exceptions as you choose to make.

The committee adjourned until 10.30 a. m., September 25, and the Chairman announced that counsel desiring to examine books and papers connected with the examination, could do so in the presence of the clerk of the committee.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., September 25, 1888.

The subcommittee met pursuant to adjournment. Present, Senators Morgan (chairman), Dolph, and Brown; Messrs. Samuel Shellabarger, J. M. Wilson, and John Staples, of counsel, and Sumner Stow Ely, secretary of the La Abra Silver Mining Company, and Hon. John W. Foster and Robert B. Lines, representing the Government of Mexico.

STATEMENT OF JULIUS A. DE LAGNEL—Continued.

The CHAIRMAN (Senator MORGAN). Does any gentleman desire to suggest anything before we proceed with the examination of the witness?

Mr. FOSTER. Upon adjournment yesterday the witness was pending an answer, which I suppose he is prepared to give.

The CHAIRMAN. The question was: "I want to know if the letters signed J. A. de Lagnel, from page 69 to 153, are yours. By whom are they written? Take them in lump, and if there are any you have doubt about, probably the shortest way is to refer to them. Take it between those pages, with such exceptions as you choose to make." Now, you can proceed with your answer.

A. The letter on page 100, I think, was written by Norton.

Q. Will you explain who Norton is?—A. He was an employé, and spoke Spanish, and wrote for me in Spanish. I wrote for him in English and he would write it in Spanish.

Q. He was an employé of the company?—A. Yes, sir. Page 101 is written by Norton. Page 125 is very indistinct, but I think it is mine. Page 137 is very imperfect, but I think it is mine. Page 138 is Norton's. Page 144, neither written nor signed by me, but from the signature and position in the book think it to be undoubtedly Exall's. I can not recognize it, but I think it is from its position, because I have letters subsequent. All the other letters contained within the book between those numbers named are mine.

By Mr. FOSTER:

Q. Does that include letters which appear to be inserted and not paged?—A. Yes, sir.

Q. Please explain the cause of the insertion of those letters as pasted in the book?—A. They were written away from the hacienda when I was absent on business; copies brought back and pasted in the letter-book by me for preservation.

Q. Will you examine the letters on pages 176 and 189 and state, if you know, by whom they were written?—A. (After examination.) The first page, 176, that is written, I think, by Granger.

By Mr. STAPLES:

Q. What is the date of that letter?—A. Eighth of November, 1867; Tayoltita, 8th of November, 1867.

By Mr. FOSTER:

Q. Now page 189?—A. That is written by the same—by Granger, I think. I believe it to be.

Q. State who James Granger, the writer of those letters, was; what relation he bore to the company.—A. Granger was—I do not know

where he is from or who he was, but he appeared at the hacienda with Mr. Exall—a friend of Mr. Exall.

Q. When Mr. Exall came?—A. Yes, sir; they came together.

By Mr. LINES:

Q. What time was that?—A. I can not tell you; about the fall of 1867; in the fall of 1867, I think. I can not tell you without reference.

By Mr. FOSTER:

Q. Do you mean 1866 or 1867?—A. Just wait; let me think. I think in 1866. It was in the year 1866; in the fall of 1866, for I left in the spring of 1867.

By the CHAIRMAN:

Q. Was Exall your successor in the management of the business?—A. Yes, sir.

Q. Appointed by the company?—A. He came out with letters from the company. He did not have any appointment from the company, but had authority, and was the only man I could turn it over to.

Q. He was the man to whom you turned over the business?—A. Yes, sir. He was sent by Mr. Garth as an assistant without any specified position, and was recommended by Mr. Garth.

By Mr. FOSTER:

Q. Was Granger an employé of the company during the time you remained there?—A. I do not think I was paying him any salary. He had been living at the Hacienda ever since his arrival, at first as a guest, and, needing a book-keeper, he being an experienced one, acted in that capacity, but I anticipated that Mr. Exall would take him regularly into his employ and give him a salary. I do not recollect ever making any engagement. If I did so it has escaped me.

Q. State whether the letter-book, from the beginning up to page 153, appears now in the same state in which it was when you left the mine.—A. Do you want me to examine this letter by letter?

Q. No; the general condition of the book.

The CHAIRMAN. Examine it so that you are satisfied you can make a correct answer to the question.

The WITNESS. Well, the only way is to examine the pages. (After examination.) Yes, sir, I find the original numbers all in and nothing inserted.

By Mr. FOSTER:

Q. To whom did you deliver the letter-book when you left the mine?—A. I take it for granted, without recollecting, that I gave it to Mr. Exall. It is the only thing I would have done. I do not remember the occurrence, but I must have given it to him with all the books together in the desks.

By Mr. STAPLES:

Q. You have no recollection on that subject?—A. No, sir.

By Senator DOLPH:

Q. You did not take it away?—A. No, sir; I did not.

Q. Or deliver it to anybody else?—A. No, sir; I never took the book out of the office where it was kept from the time I received it until the time I left.

Q. You turned the property over to Mr. Exall. How did you do it?—A. I made receipts, an inventory of the property, and turned it over to him.

By Mr. FOSTER :

Q. Have you preserved any of those receipts or invoices, or did they remain in your possession?—A. No, sir; I gave the papers I brought home to Mr. Garth.

By the CHAIRMAN :

Q. When was that?—A. That, I think, was in the month of May; it must have been May, 1867.

By Mr. FOSTER :

Q. You will please examine the letters in the front of this letter-book attached to your deposition given in San Francisco, dated May 10, 1867; May 20, 1867; May 30, 1867; June 10, 1867; July 10, 1867; July 20, 1867; August 10, 1867; October 10, 1867, and state if you know by whom they were written and signed.—A. (After examining the letters.) All of these letters that I hold in my hand that have been named were written and signed by Mr. Garth.

By the CHAIRMAN :

Q. What is his given name?—A. David J.

By Mr. FOSTER :

Q. Who was David J. Garth; in what relation did he stand to the company?—A. Mr. David J. Garth I always understood to be the treasurer of the company.

Q. You are familiar with his handwriting?—A. Yes, sir. I do not know that I could recognize it away from those letters, but I recognize this.

By Mr. DOLPH :

Q. To whom were the letters written?—A. To me, I think. The first is to Mr. Exall, one that he must have brought with him.

Mr. FOSTER. They are all addressed to Mr. Exall.

The WITNESS. I supposed they were letters to me. I did not look at the heading of them (re-examining). They are all addressed to Mr. Exall.

By Senator DOLPH :

Q. Did you ever see Mr. Garth write?—A. I do not recollect any writing done in my presence.

Q. Did you ever receive any letters from him; carry on any correspondence?—A. Oh, yes; for a year.

Q. How many letters, probably, did you receive from him and answer?—A. Well, sir, I could not say how many, but I will give you an idea. He wrote almost every opportunity, sometimes three times a month. I received letters delivered to me at the same time written on the 10th, 20th, and 30th of the month, about the days the Pacific steamer would go.

By Senator BROWN :

Q. What was his position?—A. He was the treasurer of the company in New York; but letters came irregularly to me, and sometimes would be delivered in a bundle, and there would be letters a month old.

By Senator DOLPH :

Q. State whether or not those letters were in answer to letters written by you; continuous correspondence?—A. Yes, sir.

Q. Then you are willing to state you are familiar with his handwriting?—A. Yes. I have no doubt I can recognize his handwriting.

Q. These letters, you say, are in his writing?—A. There is only one here attached; that is the one of July 20, and I notice that it differs somewhat in character. That is his general character of writing, but that is more—

Q. What do you wish to say about that letter?—A. Nothing, except that is the only one that would cause me to hesitate a moment.

Q. Who is that signed by?—A. Signed by D. J. Garth. I have no doubt it is his.

Q. Do you recognize the signature?—A. Yes; it is his. It is more carelessly written than the others, but it is his.

Q. To whom is it addressed?—A. It is addressed to me, sir.

Q. What is the date?—A. Oh, I see my name is in the attest. It is addressed to Mr. Exall, July 20.

Q. It is addressed to Mr. Exall July 20 of what year?—A. 1867.

Q. Was that while you were at the mine or after you left?—A. That is after I left. I left there in the spring.

By Mr. FOSTER:

Q. Please state by whom you were employed for the company as superintendent.—A. I was employed by Mr. Hearn, the president of the company, after an interview with and in the presence of the directors, or some of them; I do not know how many. There were some gentlemen in the room.

Q. Was Mr. David J. Garth present?—A. That I can not say. Mr. Hearn took me down to an office in Wall street, and whether Garth accompanied us or not I do not know.

Q. State your interviews, if any, with Mr. Garth preliminary to and following your employment by the company.

Mr. STAPLES. What was your question?

Mr. FOSTER. Narrate the interviews which he had, if any, with David J. Garth, preliminary to and after his engagement with that company.

The CHAIRMAN. You mean, of course, with reference to his employment?

Mr. FOSTER. In reference to his employment.

By Mr. STAPLES:

Q. Was your contract in writing with the company?—A. I could not tell you. I think it must have been.

Mr. STAPLES. Well, we object to any contract outside of a written one.

Mr. FOSTER. I will state to the committee that my object in asking that question is to give his experiences, the experience which Mr. de Lagnel had as superintendent of the company, his relation to the officers, and I propose to follow it up by asking him to give his experience at the mines, so that the committee can judge somewhat as to the condition of the company and the conduct of these men and the instructions they gave him and how he carried them out.

Mr. STAPLES. Well, if those instructions were in writing, that is the best evidence.

Mr. FOSTER. It will appear when he answers the question.

Mr. STAPLES. He has already stated his contract was in writing with the company.

Mr. FOSTER. He says he don't know.

Mr. STAPLES. He says he thought it was.

Mr. FOSTER. Even then, I suggest to the committee if his contract was in writing it would be desirable for the committee to know what

instructions he received and what occurred between him and the company before he went out and during his engagement.

Mr. STAPLES. Well, if those instructions were in writing that is the best evidence of it.

Mr. FOSTER. Nothing has been said about any instructions being in writing by the witness.

The CHAIRMAN. Have you got your objections all down?

Mr. STAPLES. Yes; so far as —

The CHAIRMAN. I suppose the witness can answer the question, and we can consider the question as to whether we shall put it in the report or not.

Mr. DOLPH. Well, that might be done, and we would simply take everything he decides to offer, whether pertinent or otherwise, and therefore might prolong this investigation with much impertinent matter. I do not suppose this inquiry goes alone to the terms of the contract between the company and this witness. He states that he acted as superintendent of the mine for a year in fact. I do not know that the terms of that contract will be pertinent to the inquiry, but it probably goes to the information which the officers of this company had as to the character and condition of this mine both before this gentleman took charge and during his superintendency, and at the time that it was urged in their petition before the commission they were deprived of possession; and in that view I think if Mr. Garth is a member of the company, authorized to speak for it, his statement would be pertinent to this inquiry.

Mr. FOSTER. The object of this inquiry is not to show his engagement with the company, but to show the condition of the company as he learned it from the officers. It may be well to say to the committee that while Mexico alleges that there was no basis for this claim as against her, because there was no evidence of violence used in driving this company away from Mexico, at the same time it is proposed to show that the company, by its own act and by its own management, had become bankrupt, and gave the reasons why it voluntarily abandoned the mine, and we propose to commence to do that by having this witness state what occurred in New York when he was engaged by the company and after he went out to the mine and after he returned. I supposed the committee wanted to get at those facts. I do not know how far the committee propose to extend the breadth of this inquiry. I suppose they want to go that far at least.

Mr. STAPLES. I understand, then, that the gentleman desires to prove by this witness that after he went out of office in 1867, I think —

The WITNESS. In 1866.

Mr. STAPLES. You went out of office in 1867—he had certain interviews with Mr. Garth.

Mr. FOSTER. Not after.

Mr. STAPLES. You do not propose to push your inquiry as to anything that happened after he was out of office?

Mr. FOSTER. I do not propose to ask him any question as to his relations with the company after he ceased his connection with it.

Mr. STAPLES. I presume any statement of fact he makes as to things he knew himself would be proper.

Mr. FOSTER. Learned from the officers of the company.

Mr. STAPLES. But I do not very well see how the declarations of the treasurer of the company would bind the company unless he was authorized to speak for it.

Mr. FOSTER. I apprehend the witness, if he is ready to answer the

question, will state his knowledge as to his employment learned from the treasurer, and I want to know what he learned from the treasurer.

Mr. STAPLES. The witness stated, I think, a moment ago, in answer to Senator Morgan, that he was employed by the board of directors; that the board of directors ordered his employment.

The WITNESS. I was taken by the president into a room in Wall street, where he said he could not employ me at once until he consulted some gentlemen, and he walked down Wall street into some office, and there were some gentlemen present. I think Mr. Knuckles was present. It was a peculiar name, and so I remember it; and I think he was the one, too, who rather objected to my going. There was a little discussion in the room, and finally it was decided to let Mr. Hearn determine the matter for himself, and he returned with me to Mr. Garth's office and made the engagement. I presume there must be a written contract, but I do not recollect.

Mr. SHELLABARGER. Now, I want to enter, if you please, another objection in addition to the one suggested by my associate, Colonel Staples. This seems to be now the threshold of an entry upon the matter of the original merits of this case as they were tried originally, and is distinguishable from what we have been going over listening to in this: that what we have been upon hitherto seems to have special, perhaps exclusive, relation to what has been called through this long controversy the newly-discovered evidence. Now we seem to be about to enter upon the question of what the mine was like, what the condition of the business was, and other facts bearing upon the question of actual loss, the question, I will say, of being driven away, the original questions in the case tried before.

The questions tried some fifteen years ago or so are now to be entered upon by this subcommittee, as I understand the question of my friend Colonel Foster. My point is, that that ought not to be done, even in the view that has been most earnestly and persistently urged by Mexico, that she is entitled to produce here, in order to induce a new trial, that kind of newly discovered evidence and facts bearing upon the reason for its not being produced originally, and all that. She was entitled to do that upon the principles applicable to the applications for new trials, etc. Now, this that you are entering upon is not that, but it is something totally different. It is to enter upon the broad, general field of the question of damages, and the extent of the damages, and the torts that arise, the right of action, etc.

I of course do not know what the committee is designing to do. The resolution of the Senate is broad and general, defines nothing, gives you license to go where you please, as far as its language is concerned, and all that. I have now made a statement for the purpose of putting ourselves and keeping ourselves right upon the record and saying that against such a proceeding and inquiry as that, going back to the original merits, I, on behalf of the company, protest and object, and ask that the Senate and its committee shall not enter that field.

The CHAIRMAN. I understand that the object of this examination is to develop the facts connected with this mine for the purpose of ascertaining whether the arbitrators who made this award were imposed upon by the fraud and perjury of the witnesses who testified in support of this claim. In order to ascertain that matter it seems to me that we must inquire into what was the condition of the mine at the time these gentlemen bought it, not only its actual condition, but what they believed that condition to be, for if they knew it was a bad mine it is hardly probable they would have bought it. If it was believed it was

a bad mine they would not have bought it. The probabilities are that they believed that it was a very valuable mine, and whatever declarations any of the interested parties made in regard to the condition, as they believed it to be, of the mine seem to be relevant. As to the conditions upon which they acted, if it turned out afterwards to be bad, why that might be a reason to shift off the responsibility upon other shoulders, but it seems to me, as one of the individual members of this subcommittee, that the evidence is relevant and that the declarations of persons interested who were engaged in the employment of others to serve the company would be competent to show what their views at that time were of the value of the mining property.

Mr. SHELLABARGER. In reply to the suggestion of the chairman I may be pardoned for adding (what I ought to have added in my opening statement, though I have no doubt it is understood, has been all the time understood) this: That the rule of exclusion in applications for a new trial, etc., and proceedings in equity to administer a decree or an order, the rule of exclusion is that defined by the Supreme Court in what is familiarly known as the Throckmorton case, and the things that the Senator has just suggested, to wit, the condition of the mine and their knowledge that it was good or bad, etc., being relevant to the issue, were the very issues tried originally before the arbitrator and are not pertinent now.

The CHAIRMAN. They would be only pertinent to show that the witnesses who made representations of these facts in their depositions, acted upon by the arbitrators, were not candid or frank in their statements, and that I understand to be the gist of this inquiry.

Senator BROWN. As I view it, Mr. Chairman, if this contract was in writing, that writing is the highest evidence of the contract, and ought to be produced. If the instructions given to the superintendent when employed were in writing they ought to be produced or be accounted for. Neither having been done, I should vote to rule out this testimony, or rather I should object to the witness answering the question as propounded by the counsel for Mexico.

The CHAIRMAN. If this was an action at law or in equity on a contract, and where the contract had anything to do with the nature of the proceedings, I should concur with the Senator from Georgia; but that is a mere incident of the transaction, which is, as I understand it, as presented in the question, an effort to gather what was the opinion of Mr. Garth, and other gentlemen, concerning this property, as to its value at the time they were employing him, and as to the expectations of realizing something handsome out of the investment. The contract is not an issue in any way.

Senator BROWN. Then why introduce it?

Mr. FOSTER. The Senator misapprehends my question. I did not intend to develop anything in regard to the contract. It is the interview that occurred with the treasurer, being in New York at the time of his engagement.

Senator BROWN. I understood your question to be to state what the contract was.

Mr. FOSTER. No, no; that was interjected by the counsel on the other side. I made no reference to the contract and do not propose to inquire into it.

Mr. DOLPH. If the only inquiry here was whether a new trial should be granted in a case where a judgment has been rendered, on the ground of newly discovered evidence, of course the inquiry would extend only to the newly discovered evidence and the question of diligence in the

parties in securing it at the time of the former trial. I do not understand that a new trial granted for newly discovered evidence is the only means by which a judgment may be impeached. I suppose a judgment, like a contract or any other transaction between individuals, may be impeached for fraud, and perjury is one means of procuring a fraudulent judgment.

Therefore I suppose that the facts tending to show the knowledge of persons connected with the company who were authorized to speak for it, and would be charged with a knowledge of its accounts, would be competent testimony where the question was raised as to whether a judgment should be impeached for fraud and perjury. The fact that the witness was a superintendent of the mine could be proved independent of the contract, because the terms upon which he was employed might not be involved. I suppose that such a fact might be proved independent of the contract, and, as I said before, it may be that counsel will not desire to show the contents of the contract or even the instructions to the superintendent. These are questions not yet reached.

I understand that as the case now stands the question is to go to the statements of Mr. Garth, who was treasurer and secretary of the company, as already appears in testimony, going to show his knowledge of the character and condition of this mine. I understand the question to be asked for the purpose of showing such knowledge, and in that view of the case I should think it would be entirely pertinent. I agree with counsel who made the objection that to come down to the question of proving the contents of the contract, or even the character of instructions that were given to the superintendent, if it appears that there were any given, it would be necessary, under the strict rules of testimony, either to produce the writing itself or prove a copy of it, or to show its loss, and then prove its contents. But I do not understand that this question goes to that extent, nor do I now express any views as to whether the committee should be bound by strict rules of evidence as to the loss of the original and its contents to be proved, or not allowing the contents to be proved, they showing the loss. In any view of the case this question may be fairly answered.

Senator BROWN. In my opinion the whole investigation should be confined to newly discovered evidence which would entitle the parties, in a court of equity, to a new trial, and I do not think we ought to go into the case originally and try it *de novo*.

Mr. STAPLES. The scope of the question of the counsel for Mexico, as Judge Shellabarger remarked, opens up the whole field of inquiry. It is, in effect, retrying the case. The committee can very well see at what disadvantage the La Abra Mining Company is put in an investigation of that kind. The very question that he asks now is one of the matters at dispute on the trial before the arbitrator. That trial occupied a period of about five years, I think, and whilst the depositions taken were mainly *ex parte*, yet they were submitted to the other side, and ample opportunity was given the Government of Mexico, after all the evidence was produced for the mining company, to put in their testimony, which they did, and, upon examination of the whole, judgment was rendered by the umpire upon a disagreement of the Mexican and American commissioners. A new trial was sought upon this alleged newly discovered evidence. It was thoroughly examined by Sir Edward Thornton. He declined a new trial. The matter was then brought before the State Department, and Secretary Fish, under the adminis-

tration of President Grant, refused to negotiate a new treaty upon this testimony.

Mr. WILSON. Let me interrupt you one moment. Before this is finally passed upon I want to go and get a couple of decisions for the purpose of presenting to the committee what the Supreme Court has said in relation to this very proposition. I will go to the Library and get it.

The CHAIRMAN. I have not seen any reason, nor heard any stated, why we shall not proceed to inform the Senate of every fact that is relevant to the merits and justice of this claim, whether or not these facts were within reach of Mexico, or whether they were actually acted upon by the arbitrators at the time. It is a matter for the Senate to determine or for its Committee on Foreign Relations to report upon. We do not know what is newly discovered evidence, as you call it, in this case, until we understand the whole situation. Now I do not understand that the fact, whatever it is, that he is about to disclose was brought to the attention of the arbitrators at all; anything Mr. Garth said about this claim or about the condition of the mine. I do not understand that it was brought to the attention of the arbitrators.

Senator BROWN. It was within the reach of parties and they might have brought it to their attention.

The CHAIRMAN. Suppose they did or did not. If we know that the parties representing this claim are dishonestly perpetrating a fraud upon the Government of Mexico and the Government of the United States also, if the Government of Mexico failed to get the evidence that was within her reach, it is no reason why we should not act upon it. I do not think the Government of the United States is called upon to pay money to men who obtain it upon fraud and perjury and upon a claim that is not valid. It seems to me this committee can not discharge its duty to the Senate and the general committee without laying the whole thing before them and letting them see how much Mexico knew and everything of that sort.

Senator BROWN. The records of the original trial would show.

The CHAIRMAN. The record is here, of course, and available to the committee to ascertain whether this evidence that we are bringing out is new evidence or not. We can not decide that question in advance.

Mr. STAPLES. The suggestion we desire to make to the committee is the very great injustice the mining company is subjected to by an inquiry of this kind. Most of the witnesses whose testimony was given before the trial fifteen years ago are dead, and those who are not dead are absolutely inaccessible, and it is a mere *ex parte* statement on the part of a witness to give the declaration of parties who are inaccessible.

The CHAIRMAN. Mr. Garth is not dead, but is now under subpoena.

Mr. STAPLES. And in reply to the suggestions of the chairman as to the allegations of fraud and perjury upon which this claim was based and judgment rendered, when this matter was investigated by Mr. Evarts, then Secretary of State under Mr. Hayes, the report that he made simply went to a charge of exaggeration of damages.

Mr. LINES. What was that?

Mr. STAPLES. I say that he reported that the question in relation to the La Abra Mining Company was simply a question of exaggeration of damages.

Mr. SHELLABARGER. Yes, and the Secretary of State reiterates that in a late communication to Congress.

The CHAIRMAN. Well, the gentleman who was then Secretary of

State is now a member of this committee, and his vote and voice is just worth exactly as much as ours and no more.

Mr. STAPLES. We do not say it is worth as much; but this charge of fraud and perjury has been investigated to protect the honor of the United States in this matter, and the party charged with its investigation has decided the fact, so far as the administration can decide it, that the claim was a valid claim, and that the question to be considered, if investigated at all, was simply one of exaggeration of damages.

Mr. FOSTER. A position which Mexico has always denied.

Senator DOLPH. Mr. Chairman, we have spent now two mornings and made very little progress. I think that in order to get along with this testimony, if there are to be objections to the testimony, we will have to establish a rule that counsel shall be heard on each side; that we will then confer with each other and let the chairman announce the decision, and go on.

The CHAIRMAN. That will be the rule of this committee unless there is objection.

Mr. STAPLES. That would be a very proper rule.

Mr. FOSTER. I do not propose to weary you, gentlemen, and do not propose to occupy as much time as my friends on the other side.

The CHAIRMAN. I will submit it to the committee whether Mr. Foster be heard.

Senator BROWN. I think he should be heard.

The CHAIRMAN. Very well.

Mr. FOSTER. I do not know what rule the committee will adopt in regard to hearing testimony; whether you are going to adhere to the strict rules of courts of justice or not, or whether you are going to follow the indications pointed out by the Supreme Court when this very case was before it, in which it was stated that it was not proper in such a trial as this that the strict rules of municipal tribunals should be observed; but whether that be so or not, I suggest that this question is strictly within the lines or rules of practice of the courts.

We submit a letter-book here and letters of the treasurer of the company and letters relating to these matters. I want to throw light upon this newly discovered testimony by a newly discovered witness. The president of the company says, he has sworn, that they have made diligent efforts to obtain Julius A. de Loguel and not able to find him and produce him. We have been able—the first opportunity Mexico has ever had—to find this superintendent, and he is before you to-day. I think it is strictly within the lines of practice of the courts to hear him on a question of this kind, and I apprehend you are not going to limit anything of this kind, but follow the indication of the Supreme Court.

Senator DOLPH. I suppose, under the rule already adopted by the committee, any party can offer such testimony as they choose, and the other party can object and it will be decided at once.

Mr. SHELLABARGER. I want to understand the rule the committee has adopted. Does it mean you will decide at once and conclusively the question of admissibility of evidence, or only you should postpone it for final decision when you come to make up your report?

The CHAIRMAN. I understand Senator Dolph's suggestion, in which I concur, and I suppose the Senator from Georgia does too, to be that after an objection is stated and argument is heard upon it the committee will come to its decision about it; and I suggest also to the committee that argument ought to be limited to five minutes on a side upon questions of this kind, unless for reasons that are obvious we should

decide to enlarge it; but as a rule it ought to be five minutes. We will never get through if we keep on like this.

Senator BROWN. Of course, when an important question comes up, we can extend it.

The CHAIRMAN. Certainly. Five minutes as a rule, and to be extended at our discretion.

Senator DOLPH. We will simply determine whether we will or will not hear the testimony, not as to the effect of it.

The CHAIRMAN. Now you can proceed Mr. Foster. I believe the majority of the committee have determined it is a question that can be answered.

By Mr. FOSTER:

Q. Please narrate the interviews had between you and Mr. Garth before you went, under employment of the company, to the mines.

The CHAIRMAN. In respect to what?

Mr. FOSTER. In respect to the business of the mining company. Tell, in a short way, how you came in contact with Mr. Garth.

The CHAIRMAN. State in your own way.

The WITNESS. I was introduced to Mr. Garth by a mutual friend, he being at the time in want of a superintendent to replace General Bartholow, who desired to leave, as I understood, on account of ill health. I met Mr. Garth. He made all due inquiries. I told him my record as I have told you, and I told him I had no previous experience as a miner, had never been in a mine, and doubted my own ability to do it, but he said that there would be a gentleman at the head of the store, Mr. Hardy, who would relieve me of all that; that he had miners of experience on the ground, a competent corps of workmen, under a competent head, to put up the machinery. It was simply honesty and intelligence and industry and control that he wanted at that moment. Mr. Hearn coming in then, or possibly another day, but Mr. Hearn went with me to the board of directors, or some of them, but it was objected when he stated to them just what I have stated to you now. I think that Mr. Knuckles was the gentleman who remarked upon my unfitness for the place, he thought, because I was not a practical miner. But after discussion it was determined to leave it to Mr. Hearn. Mr. Hearn returned to the office and he and Mr. Garth determined to employ me, and they did so, fixing my compensation and term of service. Under that engagement I left New York early in March, 1866, with letters of introduction to General Bartholow and a letter of instruction at length from Mr. Hearn as to what he wanted me to do and what he expected.

By Mr. FOSTER:

Q. Please state more fully your interviews with Mr. Garth before leaving, as to the character of the mine and condition of things—the value of the property.—A. In one of the interviews at the office—I had several with him—I noticed on the mantel-piece a piece of silver ore, a piece some 8 or 10 inches in length and proportionately high. He pointed to it and said it was taken out—I think he said the La Luz mine.

Q. One of the mines of the company?—A. Yes; he told me in reference to it, I think, that he had personally brought it home and that he thought it was worth some \$1,300 a ton. I told him he knew I was not skilled. I told him I would go to a friend, who was only a square removed, a practical metallurgist, and one of the first chemists of the country at that day, and have him make an assay if he would give me a small sample. He did it; I took it around and it turned out

over \$1,300—one thousand odd dollars in silver and \$300 in gold. I saw the assay made two or three times to confirm one or the other, and the variation was not more than two or three dollars in the trials. I returned and told Mr. Garth.

This confirmed what he had said to me. I then, having some time to spare, went to this office continually, and told this gentleman my need of experience and knowledge, and asked his advice, and he said he would instruct me; and under his guidance I went to work and learned to assay.

Q. What further did Mr. Garth state in regard to the value of the mine at that time?—A. I know he had a most exalted opinion of these mines; was firmly convinced of their being the deposit of immense wealth. He told me he had it from — he mentioned certain records. He told me the records of Durango showed the fifth paid into the royal treasury as proof of the immense wealth and product of them in years gone by.

Q. What did he say as to his expectations in regard to the mines?—A. Well, he expected immense results from them, of course.

Q. What did he say as to the present condition of the mines as he understood, and the work there in progress?

By the CHAIRMAN:

Q. The then present condition of the mines?—A. He told me that Gen. Bartholow was there; had everything working; that there was an amount of ore out; that the mill was on the ground; that the workmen were putting it up.

By Mr. FOSTER:

Q. When did he expect the mill to be in operation?—A. That summer some time; but his great desire was to get the mill up. That was the burden of his instructions verbally, and I think in writing, to me, to have the mill up and an abundance of ore out in order that no detentions might occur. I recollect his remark that many a company has been ruined because of insufficiency of ore to work after the mill was up.

Q. What did he say as to the financial condition of the company, the money in the treasury, etc.?—A. He told me—he was very explicit from the first—enjoined great economy, and not to draw upon him; that the company had about, as I think, from seven to eight thousand dollars in hand, disposable at that moment, but he told me the debts were paid. I asked him this question: "Have you any debt?" and he told me there was no indebtedness; the supplies on hand, everything, had been supplied, but that I must get up the mill as soon as possible and look to the mill to give me returns.

Q. And not to the company?—A. Sir?

Q. What did he say as to the ability of the company to meet your demands, or whether you must look to the results of the mill?—A. He told me, of course, I must depend upon the mill; he expected that; that he knew great wealth was there and I must look to the mills to buy all that was needed and send them returns, which he looked for.

Q. What did he say as to the ability of the company to pay drafts? You say he cautioned you not to draw?—A. He cautioned me not to draw; yes. After I got back he told me about the inability of the company to—

Q. Well, I am only inquiring what occurred before you went out.—A. Before I went out, I don't know that he said anything, except that he had this money; that he did not want to be drawn upon, and that I

must look to the mill to give me the necessary means to carry on the work, and have the mill pay operatives and everything else.

Q. Was he expecting more than that—more than simply paying current expenses?—A. Of course he expected bullion in New York.

Q. To any large quantity?—A. Mr. Garth's estimation of the mines was excessive. He seemed to regard it as the deposit of immense wealth; that it had yielded he was satisfied, and would do it again. His idea was that the mines had been destroyed with the Spanish expulsion by people going in unrestrained and tearing down the pillars that would be left by old Spanish law, to keep the walls apart, to pick out the silver; and this being done the walls had tumbled in in many places. The mine was full of débris, and they were working under great expense, and the work had been to get that out.

Q. Now, you went to the mine after this; what time did you reach the mine?—A. I left New York the first of March; I must have reached the mines in the month of April, I think.

Q. What year?—A. 1866.

The committee adjourned until 10.30 o'clock a. m., Thursday, September 27, 1888.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., September 27, 1888.

The subcommittee met pursuant to adjournment. Present, Senators Morgan (chairman), Dolph, and Brown; Hon. Samuel Shellabarger, of counsel, and Sumner Stow Ely, esq., secretary of the La Abra Silver Mining Company, and Hon. John W. Foster and Robert P. Lines, representing the Government of Mexico.

The CHAIRMAN. Mr. Foster, will you proceed with your witness?

Mr. FOSTER. Before I call Mr. De Lagnel I would like to make a statement and a request to the committee. There is present this morning Mr. Tuttle, a gentleman in active business in New York City, who is called here by the Sergeant-at-Arms to appear this morning, anticipating, I suppose, that you would have been through with Mr. De Lagnel. The only object in his coming is I desire to ask him to identify certain letters of Exall, and, so far as I am concerned, I do not think I will occupy more than fifteen minutes in hearing him. It is simply a matter of convenience for him having been called by the committee, and, being engaged in active business in New York, you can appreciate his situation. I will call him if the committee will allow, and the other witness can stand aside for that time.

The CHAIRMAN. Is there any objection to postponing the examination of Mr. De Lagnel until this witness is examined?

Senators BROWN and DOLPH. I see no objection.

TESTIMONY OF WILLIAM P. TUTTLE.

WILLIAM P. TUTTLE, sworn and examined.

By Mr. FOSTER:

Q. Please state your name, age, residence, and occupation.—A. My name is William P. Tuttle; age, forty-five; residence, Madison, N. J.; occupation, banker and broker, New York City.

Q. How long have you been engaged in business in New York City?—

A. I have been actively engaged for fifteen years.

Q. State whether or not you have been acquainted with Charles H. Exall.—A. I was acquainted with him.

Q. State the circumstances of your acquaintance, the character of it.—

A. I was a member of the firm of Ewing & Tuttle, brokers, and Mr. Exall became our book-keeper, in which position he remained during parts of the years 1877 and 1878. I was only acquainted with him in that relation.

Q. Are you familiar with his handwriting?—A. I am.

By Senator DOLPH:

Q. Have you seen him write?—A. Yes, sir.

By Mr. FOSTER:

Q. How have you established your familiarity with his handwriting?—A. Well, since I knew that you would call upon me I found a journal of his in his handwriting which I examined, but I was familiar with it before, but have refreshed my recollection, it being some years since I saw it before.

Q. I think you stated that he kept the books of your firm?—A. He did.

Q. In his own handwriting?—A. Yes, sir.

Q. I will ask you to examine this book (handing witness the press-copy book) from page 153 to page 188, inclusive, and state whether you recognize the signature and handwriting of letters signed O. H., or Charles H. Exall therein.

Mr. SHELLABARGER. I wish to make an inquiry of counsel whether they propose to offer all those letters of Exall and the other letters that have been alluded to in evidence, whether you propose to put them formally in evidence? It has not yet been done.

Mr. FOSTER. We do. We want to establish—

Mr. SHELLABARGER. Well I may as well now, Senators, as once for all, I shall not trouble you with objections about the record—

The CHAIRMAN. We would prefer, if it would suit your convenience, to reserve your objection until the offer is made and then discuss the whole question at once, unless your convenience would be subserved by going on now.

Senator DOLPH. And the convenience of the witness should be considered.

Mr. SHELLABARGER. The objection had just as well be made now because if my objection is good it is good against the evidence of this witness. If the letters are not competent evidence there is no materiality in the handwriting, and I just want to say now as to all such evidence of these letters wherever they contain, as it appears they do, declarations of agents outside of the terms or the scope of their employment, such letters are mere hearsay and are not good evidence. I want to put that upon record.

Senator DOLPH. I suppose the committee would not pass upon that objection because the letters are not before us and would be reserved.

The CHAIRMAN. We do not know what the circumstances are.

Senator BROWN. When you furnish the letters—

Senator DOLPH. The examination will proceed.

The WITNESS. I would say that all the letters that purport to be written by Mr. Exall are most unmistakably in his handwriting. There are a few statements here which are in another handwriting. They show

themselves, and there is another letter; there is a letter from another party, but those that are in there purporting to be his handwriting are most unmistakably his.

By Mr. FOSTER :

Q. Those that have the signature C. H. or Charles H. Exall?—A. The signature is correct, and as nearly as I can judge, the handwriting is his.

By the CHAIRMAN :

Q. On what pages are those statements that you say are not in his handwriting, and the letter?—A. I should simply say that I am not certain about them, that they do not appear to me to be in his handwriting; pages 158 to 164.

By Senator DOLPH :

Q. What are those statements, statements of accounts?—A. They seem to be figures, "statement cash receipts."

By Mr. FOSTER :

Q. Well, you referred to a letter.—A. Then there is a letter. The letter shows for itself that it is not his, for it is signed by another party, and it is not in the same handwriting at all; Granger on page 176.

By Senator DOLPH :

Q. On page 176 a letter of Granger to whom?—A. It is to D. J. Garth by Granger, and it looks like the handwriting of the statements.

By Mr. FOSTER :

Q. You are not familiar with his handwriting?—A. I am not familiar with his handwriting.

By Senator DOLPH :

Q. That is Mr. Garth's?—A. Garth's.

By Mr. FOSTER :

Q. You have no doubt of the genuineness of the signature of Exall?—A. Not at all.

Q. Please examine letters dated as follows and signed Charles H. Exall, Tayoltita, February 26, 1868; Mazatlan, March 15, 1868.

Senator DOLPH. Mr. Foster, are those letters marked as exhibits; have they been heretofore marked as exhibits?

Mr. FOSTER. They were presented at the time of the taking of Colonel De Lagnel's deposition in San Francisco. They were presented to him at that time and he failed to recognize them.

Senator DOLPH. I was only going to suggest that they ought to be marked as exhibits.

By Mr. FOSTER :

Q. San Francisco, April 7, 1868; New York, May 8, 1868; New York, June 15, 1868; Richmond, July 18, 1868, and state if you recognize the handwriting and signature of those letters and, if so, by whom were they written and signed.—A. (Examining.) Those are all in the handwriting of Mr. Exall, signed by him.

By the CHAIRMAN :

Q. When did you last see Mr. Exall?—A. Mr. Exall died in 1879 or 1880. I do not think I saw him for more than six months previous to that or only casually.

Q. Where did you last see him?—A. I can not say. I can not remember the last time that I saw him. I saw him of course very frequently before he left our office, and shortly after he left our office I dissolved with my partner and I can not say whether or not I ever saw him since about that time.

Q. You do not remember to have seen him since his return from Mexico?—A. I do not know when he went to Mexico.

Mr. FOSTER. This engagement was in 1878.

The CHAIRMAN. I had the dates wrong. I supposed it was before Exall went to Mexico.

By Senator BROWN:

Q. Did you ever see this press-copy book before?—A. Yesterday I saw it as I came to the committee-room with Mr. Foster.

Q. Is that the first time you saw it?—A. Yes, sir; that is the first time I ever saw it.

By Mr. FOSTER:

Q. How did you learn of Exall's death?—A. I heard of it at the time; my partner, Mr. Ewing, told me.

The CHAIRMAN. Mr. Shellabarger, do you wish to examine the witness?

Mr. SHELLABARGER. I have no questions to ask. I want to state an additional objection to the one I stated a moment ago, although these letters are not yet offered, but that testimony is immaterial because I would state first, namely, that the letters are hearsay, being matters about which an agent is not competent to speak; secondly, certain of the letters purported to have been written after the alleged agency terminated, and they are clearly incompetent for that reason.

The CHAIRMAN. We will pass upon all the objections when the testimony is offered.

JULIUS A. DE LAGNEL—recalled.

JULIUS A. DE LAGNEL, examination resumed.

By Mr. FOSTER:

Q. You will please state the condition of affairs at the mine when you arrived there.—A. I found a large number of workmen.

By the CHAIRMAN:

Q. About how many?—A. It is hard for me to tell you, some 20 odd Europeans (20 or 30), and a large number of Mexicans, 100 I suppose.

By Mr. FOSTER:

Q. Proceed with the statement of the condition of affairs.—A. The patio was entirely covered with the machinery as it had been laid down from the pack train, the parts not put together.

By the CHAIRMAN:

Q. What is the patio?—A. Patio is the old Spanish term, the inclosed square space, inclosed by stone, in which the beneficiation took place.

Q. What is beneficiation?—A. It is treating it with salt, sulphate of iron, and quicksilver after it comes from the battery, when, with the action of the heat and light of the sun upon it, the silver is released from the ore and, combining with the quicksilver, forms an amalgam. The process is termed amalgamation.

By Mr. FOSTER:

Q. You are referring to the Mexican method?—A. That is the Mexican method. In the American treatment with pans the amalgamation is done in iron pans, and in the Mexican system the beneficiation is done upon the patio.

By the CHAIRMAN:

Q. You say you found the floor covered with machinery; what kind of machinery?—A. American machinery brought from San Francisco.

By Mr. FOSTER:

Q. What was the character of the work going on?—A. They were building the mill-house and warehouse, and were mining.

Q. That is extracting the ore from the mine?

By the CHAIRMAN:

Q. Before you proceed with a further statement I would like to know what the character of the work was that was being done; I would like to know something more about the condition of that mine. It appears from the statement made the other day that it was an old mine, at least that was the view Mr. Garth had.

Mr. FOSTER. Many mines, Mr. Chairman.

The CHAIRMAN. I know. Well, I desire to be informed about how many openings were there.

The WITNESS. Different mines?

The CHAIRMAN. Yes, belonging to this company. Just name them.—A. There was the La Abra, and, as far as I recollect, the La Luz, the El Cristo, the Arrayan; there was a mine called the Saus, the La Tulpa, the Rosario. There were others that I can not recollect the names of; one or two others. There was a little mine that General Bartholow denounced after his arrival, called the Bartholow, I think.

By Senator DOLPH:

Q. Do I understand you to say these all belonged to this one company?—A. They were so represented to me.

By Senator BROWN:

Q. How much land was covered by all these entries? There were openings at each entry, I suppose?—A. I had never had any bounds and metes given me at all. I only know the relative position of the mines—all near abouts on the side of a rough mountain. It is almost impossible for me to estimate the area.

Q. How far would they average apart?—A. It would be impossible to say. They were winding, broken, craggy paths. Sometimes, I suppose, an opening would be reached in fifteen or twenty minutes from one to the other.

By the CHAIRMAN:

Q. Now I want to know, Mr. De Lagnel, whether these were all old mines, Mexican mines that had been formerly worked under the Mexican or Spanish régime in that country, or whether they were fresh openings made by the company?—A. All named by me were old, save the Bartholow, which was opened by General Bartholow himself.

Q. What was the main leading mine there, the one on which there was the greatest reliance?—A. The one to which the reputation seemed to attach was the La Abra.

Q. To about what depth had that been worked?—A. Several hundred feet, I think. There was an immense gap, an immense excavation. I

do not think it was being worked at the time of my arrival; I think that two of the others were working, and were worked by me. The La Abra was, I think, untouched at the time, although I will not be positive.

Q. Was not that worked during the time you were there?—A. I sent the gang in when I was in need of metal elsewhere. I sent them in to see if there was any prospect of a rich opening.

Q. Do you know whether these minor shafts had been robbed of their pillars?—A. There were portions of the work in the La Abra that looked as if every pillar had been cut out. I judged it to be the remnant of a vein that had been wholly extracted. You could stand and gaze as you can between the sides of that window and see the light beyond it, and it takes its name from that. Whether that opening was natural or whether the vein had formerly filled it I do not know. There was a great deal of débris and dirt in the mine.

Q. Came from the roof of the mine and the walls?—A. The walls were cut here and there. There may have been a break, I do not remember that distinctly; I merely took a careless glance—merely went to the opening to see it. The only light was a tallow candle. You go up and down by a simple notched pole; the drop is about 30 feet from one level to the other.

Q. What were the means of carrying ores out of the mines to the surface?—A. They were carried out altogether by means of leather bags, strapped over the forehead.

Q. They fill up the bag and climb these poles until they get to the surface?—A. Yes. The miner has a lamp on his head, and places the inverted conical bag on his back, strapped to his forehead, and then he has his hands free to climb.

Q. You had no machinery then to get the ores?—A. No, sir; it was done by drill and hammer, and by bar and powder. The lifting was on the men's backs, the whole of it.

Q. Was there any mining engineer there in the employment of the company?—A. There was none to my knowledge; no special one to my knowledge.

Q. Was there any person there who was specially skilled in mining engineering to make a survey of the mine?—A. That I do not know. I do not know what the capability of those present was. I never saw or heard of it.

Q. It was never attempted?—A. Not to my knowledge.

Q. The work you conducted there then was to get out the ores that were accessible in the old shaft?—A. Yes, sir; in the La Luz and the El Cristo.

Q. I suppose you expanded it wherever you thought it was likely to develop?—A. Just followed the vein. The walls were clearly defined, and it was a quartz vein, at times presenting strong appearances of silver, the metal (what I was told was metal) differing from the white quartz. I have seen the breast of metal as broad as that (about 2 feet), and then it would taper down to mere little dark threads.

Q. When you speak of metals you speak of ore metal?—A. Yes.

Q. What was the description of the metal inside?—A. I think there were sulphurets in it.

Q. What was the stone that composed the roof?—A. If I am not mistaken they were granite walls.

Q. On both sides?—A. I think so. There was very little inclination; it was almost vertical.

Q. It was a fissure vein, then?—A. Yes, sir. Now I am not a skilled engineer, and possibly the terms I use may not be proper, but I mean

to say there was very little inclination to the vein. It was nearly vertical; a slight inclination only.

By Senator BROWN :

Q. Allow me one moment. You spoke of the mines running out until there was only a little streak of it.—A. Yes, sir.

Q. Is it not the character of mines of that sort to have faults, as the miners call them, where it sometimes runs entirely out and then commences again ?—A. I have heard of that, and I believe it to be the case, but I am not sufficiently skilled in mining to talk as an expert.

Q. The vein there was not of uniform size, it was sometimes large and sometimes small ?—A. The vein was there, but so far as I saw they did not think it justified the packing and saving. It was not rich metal. There was great waste in the work.

By the CHAIRMAN :

Q. Now in mining this I suppose you would go down between the walls of the granite rock, remove all the material that lay between them, in order to get at the true silver vein that was in the mine ?—A. It was all brought out to the mouth of the mine and there cleaned before being taken away. There were three gangs. There was one barrateros made the drillings in which to deposit the powder to blast. Then there were taneteros or younger men who brought up the bags or sacks to the mouth of the mine. Then there was a third class called limpiadores, who took their place in the broad daylight, and cleaned it; and it was supposed nothing was brought away to the hacienda except such as was worth bringing.

Q. That is down the mountains to the patio ?—A. Yes, sir.

Q. What was done with the débris that was found on mining down on this vein; was that brought to the surface on the backs of men or was it left in the mine ?—A. There was nothing but the vein followed along, and the whole of it was brought out to the mouth of the mine and everything cleared out to the best of my knowledge. The waste matter was thrown down the dump. There was an immense deposit of it sliding down a great distance. It was a very abrupt height.

Q. But all the material that was loosened up ?—A. Was brought out and the valuable part separated and brought down.

Q. Was the mining you did in the La Abra shaft ?—A. The work done by me in the La Abra was nothing but sending in to see if there were remains of rich metal to justify the head miner to put his men in. The head miner was a man named George Cullins, who reported to me on this subject, and he was the man I relied upon.

Q. And you sent in the men on his advice ?—A. On his advice, to see if they found ore to justify putting the men in there; and the question with me respecting continuing work in La Laz was, whether to spend the money in finding something that lay behind this mass of obstruction or go elsewhere.

Q. What was the mine that you worked ?—A. The La Luz.

By Senator DOLPH :

Q. Is that where the machinery was ?—A. There was no machinery.

Q. Well the portions of the machinery you speak of when you arrived there ?—A. That was at the hacienda on the riverside. It was right on the stream; the mines were high up.

By Mr. FOSTER :

Q. Following this up a moment you state that these were old mines; how old ?—A. I can not tell you, except that they had been worked, I

was informed, by the old Spaniards. That would have been prior to 1821 or 1822. I do not know. It was about that time.

Q. That is during the Spanish domination previous to the establishment of the Republic of Mexico?—A. I had no special information in regard to this. La Abra was the one I had heard spoken of so much, and I supposed these were all old works that had been opened and abandoned and then picked at subsequently.

Q. You were telling about the improvements that were being made; briefly, what was the character of those improvements, they had the mill you state?—A. The mill-house and mining. They were putting up a new building, a long new building, as long as the old one some 20 feet to the east of it and one story adobe walls with a tiled roof. That was designed for offices and store-houses as the place was very contracted.

Q. What was there previous to the erection of those works?—A. There had been the old Spanish machinery for the reduction of silver ore on the patio and the buildings adjacent.

Q. A full equipment for that character of reduction?—A. I presume it had been full; it was broken when I arrived.

Q. Had that been removed to give place to this machinery, or was it being removed; what was the fact as to that?—A. The old wall of the wheel pit had entirely disappeared, and the new wall, I presume, had replaced it, or nearly so. There may have been a slight change of location.

Q. Then do I understand they were substituting a new method of working for the old method?—A. When I arrived they were building a mill-house and erecting machinery which had been brought from San Francisco—a new American mill—a ten-stamp mill.

Q. Would those improvements have for its object the old methods of the reduction of the ore, or upon the new American plan?—A. It was reducing the ore according to the American plan.

Q. Different from that which had heretofore been?—A. It was, as I understand it, the same thing only by different means. The American machinery was designed to work a greater quantity in a less time.

By Senator BROWN:

Q. They would elevate it on a different plan from the one you mentioned where they brought it out on the backs of the miners?—A. No, sir; that was not to be changed. It was in regard to the reduction and the treatment in the pans, as I understand, that they treat it on the patio, only it is a quicker process, does it more quickly.

By Mr. FOSTER:

Q. Now, you have stated what Mr. Garth's expectations were as to the condition of the mill and machinery; how did you find that to correspond with the facts when you arrived there as to its preparation for work?—A. That did not cause me thought. The material he spoke of was there. I think that he had an idea it was more advanced than it was, but with that exception nothing occurs to me worthy of remark.

Q. Was it near a condition of things to reduce the ore?—A. No, sir.

Q. State what you found as to the financial condition at the mines; how did that correspond with Mr. Garth's information given to you in New York?—A. Mr. Garth, in answer to a question, stated the company was not in debt there, and that they had been fully supplied with everything. He told me not to draw upon him unnecessarily and cautioned me against doing it, saying he had \$7,000, or thereabouts, available on hand at that moment, but the mill was so well advanced that he ex-

pected it soon to be able to maintain itself and he was looking for returns from it.

By Senator DOLPH :

Q. How did you find affairs when you got there in reference to this statement?—A. The frame-work for the battery was up, the foundation timbers, some of them (the battery not) in place, the wheel pit had been built, the frame-work and the wheel itself were in, a beautiful wheel, very well done, and there it had stopped. I found a stone foundation of the mill-house, probably 6 or 7 feet high, had been laid; that was built.

Q. The mill-house was not up?—A. No, sir.

Q. Did you find any debts there?—A. As near as I could get at it, somewhere upwards of \$23,000 or \$24,000; I suppose \$24,000 due them in Mexico.

Q. At the time you arrived?—A. Yes, sir.

Q. And how much did it require to put the machinery up for the reduction of ore?—A. That I could not say well, because the work was delayed. I do not remember any estimate being made by me beforehand. I merely carried it on as best I could under many embarrassments, and I do not know that I could answer that question.

Q. Can you state how much you drew for up to the time you left?—A. Yes, sir.

Q. To the end of the year?—A. Yes, sir.

Q. Well, state that.

By Mr. FOSTER:

Q. You might state how you began to draw and follow it up.—A. In Mazatlan, in the month of May, when General Bartholow returned and had turned over the books and authority to me, which he did in Mazatlan just before sailing—

By the CHAIRMAN:

Q. May of what year?—A. 1866. At that time I wrote from Mazatlan by the same mail to Mr. Garth, telling him that as nearly as I could approximate there were about \$20,000, upwards of \$20,000, then due, or nearly due, and that it would require money to meet it; that I would require and did draw by that mail for \$15,000, and would follow it in thirty days by another for the like amount.

By Senator DOLPH:

Q. That was before you reached the mine?—A. No, sir; I had been there and come down with General Bartholow, and then he settled up his account with Echeguren, Quintana & Co., and advised me to transfer the account, which I did under his advice, and gave me the books, and I wrote this letter to Mr. Garth and sent the draft. There were subsequent drafts, the date I can not tell; one for \$10,000, one for \$7,000, one for \$7,500, and the last one I drew for \$500.

Q. Did you also draw the second draft for \$15,000 that you notified Mr. Garth you would draw?—A. Yes; it is shown in this printed statement; \$59,500, that is about it; just a little short of \$60,000.

By the CHAIRMAN:

Q. In drawing for \$59,000 at these different intervals and upon these separate drafts, did you only draw for what was necessary for the conduct of the business there, or did you draw for more money than was necessary?—A. I drew, so far as I can recollect, only for what I knew

to be immediately due and for what I thought would be ample at the time so far as I could see.

Q. These drafts were in excess, I suppose, of the yield of metal of any kind from the mine?—A. There was no yield there at all then, the mill was not up; it was delayed by many causes.

By Mr. FOSTER :

Q. How did Mr. Garth receive those drafts; what answer did he return you in regard to your action in drawing?—A. Mr. Garth paid them, but always remonstrated and enjoined me not to draw upon him, and possibly I will save time if I just tell you why I did. I argued this way, that if it were a finality with him, he would instruct Mr. Ralston not to honor my drafts, because I had gone to Mr. Ralston—

Q. Who was Ralston?—A. He was the cashier of the Bank of California.

Q. Through whom the drafts were drawn?—A. Always drawn upon him. I drew upon Mr. Garth, and then, predicating upon that, I drew upon Mr. Ralston. I would get the money in Mazatlan on drafts on San Francisco, and he would get the money from Mr. Garth in New York, as I understand it.

Q. You were going to make a statement in explanation of how Mr. Garth received the drafts, and you were going to state the theory upon which you acted; proceed with that.—A. I would further say, when I was interrupted, that I drew, thinking he would instruct them not to pay in case he determined not to do it. That would be a check upon me finally and, knowing it was absolutely necessary either to have the money there as the only means of supply or stop the work, I thought it was mere justice for the company running the risk to draw the drafts, and, having found him pay one, it strengthened me in the belief that when he was determined not to pay further, he would instruct me by letter, or have written to Mr. Ralston to cease paying my drafts. That is the way I argued.

Q. Do you know whether the last draft you drew was honored?—A. I knew nothing except by hearsay. I know now by reading these proceedings.

Q. State what information you received from General Bartholow, as I understand, the former superintendent, as to the condition of affairs when he put you in possession.—A. I received very little information, if any, from him. I asked him to give me a clear statement of the account of every workman. He said some of them had not been posted, but that there was money due, more or less, wages running on account. I asked him to give me a written statement of those and give me a statement of all outstanding contracts and engagements, to inform me as to what he contemplated, his plan of carrying up the mill, and so on; in fact, supply such information as would be necessary to help me in my then state of ignorance. The General was ailing from time to time, although he was about constantly, but allowed it to pass until I finally addressed a note to him calling upon him to do it, a copy of his reply to which I find in one of these little printed proceedings of the court.

Q. You found it in the press-copy book?—A. I think I read it in one of these printed proceedings. He did give me a little memorandum on a piece of paper of the names of his workmen, the date of engagement, due from such a date; something of the kind.

Q. What was General Bartholow's mining experience?—A. Of that I know nothing.

Q. Did you learn nothing from him?—A. I do not know that I ever discussed it. I can not tell; I do not know what it was before I met him. All these gentlemen were mere acquaintances to me.

Q. What was your expense account, the character of it?—A. What was that?

Q. Give us some idea of your pay-roll; what were you paying the workmen from California, especially the head man and others as you found the engagements when you went there?—A. The master-workman having control was getting \$10 a day, gold, and his board; the other workmen, mill-wright, carpenters, blacksmiths, masons, and others, \$5 a day and board.

Q. How about their traveling expenses?—A. That I am not positive about. I do not remember whether they were paid down or not; I can not say; I do not know. I know they paid their way back when they left me; the month after my being there they left.

By the CHAIRMAN:

Q. Why did they leave?—A. That I can not say. I thought it was personal feeling; I was told so by parties; I do not know whether there was any truth in it; but it may have been the approach of the rainy season and their desire to get out of the country. When the contractor left he violated his contract, and I was doubtful as to paying him.

By Mr. FOSTER:

Q. What course did you adopt upon finding this condition of things at the mine, as to continuing work?—A. I just cut down expenses by reducing the working force, but not at once—that was subsequently. The first thing to be done was to get men to supply the place of those skilled workmen who had left leaving the mill incomplete and in detached fragments on the patio.

By the CHAIRMAN:

Q. How long was that after you got there?—A. A month. They left in the month of June.

By Mr. FOSTER:

Q. I find a copy of a letter in the book in which you suggest to cut down expenses, etc.—A. Without looking I could not tell you at what moment I did that.

Q. But you did reduce the force?—A. I reduced the working force.

Q. Now I would like for you to state a little more particularly the locality of the mines; where were they and what was the character of the country? In the first place, how far were they from the nearest sea-port, Mazatlan, if that was it?—A. I think it is a hard thing to estimate in a country like that where you are up and down all the time; I should think about 150 miles.

Q. What was the character of the country and means of access to the mines from the sea-port?—A. From Mazatlan it was almost level for 30 miles; from there to San Juan or San Ignacio, two little towns lying about abreast of each other, it was about 50 miles; it was usually put at that; the rest of the distance lay from that point up. The first 30 was level almost; from 30 miles up to San Ignacio was a broken country, hill and dale; from San Ignacio up to the mines it became a trail, up the stream, crossing it continually from one side to the other, and across spurs of the mountain where they jut out; sometimes crossing the stream, sometimes in the stream, in the water. It was a most abrupt country for the last portion of it.

Q. You say trail, what kind of a trail?—A. A single mule trail; nothing else could pass but a mule.

Q. What is the average traveling distance from the mines to the seaport?—A. It depends upon the season you go. When you go this way I describe I think from point to point about three days, if I am not mistaken. It might be done in less by hard riding, but I think three days. We generally rode, if we started off from Mazatlan in the morning, 30 miles to Camacho and stopped; the next ride would be either to San Juan or San Ignacio, 50 miles, and then finished the third day, although it was a hard ride, and generally the third day we stopped about half a day's ride short and made that in the morning.

Q. Did it sometimes require more time?—A. If you went by the other road in the rainy season, as I was once compelled to do, across the river and passing by way of Ventanas, making a circle, or three-fourths of a circle, it was eight or nine days.

Q. Now for transportation; did it require a longer time to reach the mine?—A. For transportation of freight?

Q. Yes.—A. That would come in the dry season; they never come in the rainy season; the transportation was always in the dry season, between the termination of the wet and its commencement in the following year, and that was always by the route that I just spoke of to San Ignacio or San Juan, and from that up along the river to the mines.

Q. How many days would it average?—A. I could not tell you. It was done by pack train, and I could not tell you.

Q. Was it a longer time than for the ordinary travel you just described?—A. Certainly, for we rode fast, fine mules, and they are freight mules.

By Senator BROWN:

Q. The freight was packed on the mules, was it?—A. Yes, sir.

By Mr. FOSTER:

Q. How was the mill and other mining machinery and supplies brought to the mine; what method of transportation was used?—A. That was before I arrived there; I can only say that everything was brought upon the backs of mules, packed on the backs of mules.

By the CHAIRMAN:

Q. Machinery and provisions and all?—A. Everything. The machinery was made especially for packing on the backs of mules. The pans were in quadrants and were riveted and cemented by rust on the grounds.

By Mr. FOSTER:

Q. They came in pieces?—A. Yes, sir; each pan was in four pieces. The shafts for the battery were the most difficult things; they were long bars of iron and were awkward for the mule to carry in turning, but everything was brought up on the backs of mules.

Q. You had access to all the books and papers left by General Bartholow and you had knowledge of the accounts while you were there; can you give from that knowledge an estimate of the cost of the stamp-mill, the approximate cost?—A. No, sir; left to myself I could not answer any question of detail of that kind. I have read the printed statement and I know from Mr. Garth what was the actual cost. He told me before I started what it cost in San Francisco, its original cost. From General Bartholow I know what it cost to get it there, and the printed statement I see confirms it very well, I believe.

Q. Well, if you know what the mill cost and what it cost to get it there from Mr. Garth and General Bartholow, can not you give us that aggregate?—A. Mr. Garth told me the mill cost \$10,000 in gold in San Francisco; that is, just the iron machinery made at the works; they are the castings, and General Bartholow told me it cost about \$10,000 to get it out and on the ground with the parts to be put together and erected.

Q. What did it cost to erect the machinery and the other improvements made at the mines which you have described?—A. I could not answer you. I could answer you from this printed statement; but I recollect enough about it so that I think I can say it cost about \$101,000 or \$102,000. That is the amount named in a statement I sent, and I think it comes pretty nearly up to the estimate.

Q. What do you include in this \$102,000; what are the items?—A. The purchase of the mill, its transportation there, the payment of all the workmen, supplies, etc.

By the CHAIRMAN:

Q. In putting up the mill?—A. Up to the time I took charge I suppose \$102,000 had been spent.

By Senator DOLPH:

Q. That amount was up to the time you took charge, you say?—A. Now you see I can not be positive as to the date; \$101,000 or \$102,000 is my impression, but the difficulty is I have read this statement and it brings it up, fixes it. I don't know whether I get it from there, but I think \$102,000 is the amount, and I think that that would be about the amount at the time General Bartholow left, to the best of my knowledge.

By Mr. FOSTER:

Q. What does that represent?—A. It represents all the expenses on behalf of the company, so far as I am informed.

Q. All expenses?—A. That is, expenses there in that country. I don't know what expenses they had in New York.

Q. The amounts disbursed by General Bartholow?—A. By General Bartholow.

By the CHAIRMAN:

Q. That would include the mining and treatment of ores, if any were treated, and also the erection of the mill and pay of workmen up to that time?—A. Yes, sir.

Q. Would it include also the goods there?—A. Yes, sir.

By Mr. FOSTER:

Q. And the payment of the mines?—A. The original purchase of the mines? That I know nothing about.

Q. Well, the letter-book shows the mines were paid for.—A. Mr. Garth paid for the mines, I believe.

By Senator BROWN:

Q. Then you state you know nothing about the cost of the mines?—A. I have been told that they cost fifty odd thousand dollars, and I think that that is the amount named in the account in the book; I am very certain of it; about \$50,000 and a small after payment. I think possibly, Mr. Garth himself told me, although I am not positive.

By Mr. FOSTER:

Q. This amount of \$102,000 represents all the money that passed

through General Bartholow's hands while he was superintendent?—A. As I understand, it does.

Q. How was that transportation made; by what method; you stated by mules?—A. By mules.

Q. By whom were the mules owned?—A. That I do not know. While I was there I always hired them. I do not know whose mules General Bartholow had, but I am under the impression he hired them.

By the CHAIRMAN:

Q. Did you find any mules belonging to the company?—A. There were twelve, I think, turned over to me.

By Senator DOLPH:

Q. What were they used for?—A. One I rode, one Dr. Hardy rode, and one General Bartholow rode, three riding mules; and the others were used for packing mules. Two of them were stolen while I was there.

Q. You mean packing ore where it was assorted down to the place where it was to be reduced?—A. Yes, sir.

By the CHAIRMAN:

Q. I want to ask a question as to the character of the country, whether it was an agricultural country or mountainous?—A. It was a mountainous mining region. There were valleys some miles away where cane, for instance, was grown.

Q. How many miles away about?—A. From this region?

Q. From the hacienda?—A. I do not understand the question.

Q. How many miles from the hacienda were these productive valleys?—A. This tract of country I speak of was down in the vicinity of San Juan.

Q. How far away?—About 60 or 70 miles.

Q. The point I am coming at is whether you could rely upon that country for provisions.—A. Not wholly. There were certain things came from there, and you had to send in other directions for certain things.

Q. The immediate country around the hacienda, was that a productive country?—A. Not at all.

Q. You had to send to a distance?—A. Everything had to come from a distance.

Q. How great a distance?—A. Well, some of the supplies came all the way from Durango.

By Mr. FOSTER:

Q. How far was that?—A. I never made the trip but once, and I think I was four or five days, I know over four days, certainly; about 200 miles somewhere.

By the CHAIRMAN:

Q. How did you get forage for the mules?—A. Used to have it brought in on animals and stacked.

Q. What distance would it be transported?—A. That I could scarcely say, because I do not know where that forage came from. It came from different persons who would come in and offer it.

Q. Was there any grass on these mountains?—A. Yes; whenever the animals were at rest they used to be taken out to grass, but it was not a subsistence that would last them. We had to carry them through the bad season; in fact we gave them corn always from the stores and kept this forage stacked.

Q. Were these mountains timbered?—A. Heavily timbered—high up. You had to go a distance, however, for the timbers, and the timbers for that mill were brought on the shoulders of men fully 15 miles.

Q. Brought on their shoulders for 15 miles?—A. Not all the way. When it was possible to slide them they would do so. The path was zigzag, and where they could make a favorable chute they could let go of these logs. The end of the log was notched and a lariat would be fastened to it. Then they would carry it down to another convenient point.

Q. They could not bring them in on mule back?—A. No, sir; they had to be brought on the shoulders of men.

Q. And that is the way you got timbers for the mill?—A. Everything, even the light poles for the roof.

Q. Were the houses in which you resided frame houses or brick? A. Do you mean the old building as well as the new?

Q. Yes.—A. The old building had for the lower portion a solid stone wall that had been built many years, and the other portion was adobe upon it, and then there was a broad peaked, tiled, roof. The new building was exactly the same dimensions and built wholly of adobe. The bricks were made on the ground under contract with General Bartholow.

Q. Well, you had no timber out of which to make houses?—A. Not except by going to this enormous expense in bringing logs and sawing them up on the ground.

By Mr. FOSTER :

Q. Now state how much silver was obtained from the mines by reduction during your period as superintendent.—A. Just before leaving there was a run of a small number of tons—how many I don't recollect; I suppose about ten. It was shoveled down and thrown into the battery, crushed, passed in the pans, was beneficiated and run into bars, two bars.

Q. What was the value of that?—A. I did not take any value; when they came to me they looked like two bars of gold, and we all thought it was an immense yield. I sent them, or took them over myself, to Mr. Rice at San Dimas, who was in charge of the Durango Silver Mining Company, and asked him to reduce them after first having them assayed, and they found that there was a large admixture of base metal. I then asked him to have them refined, and in return I had a plancha of silver, and it was as thick as that [indicating] about in the middle with a very slight dish to conform to the bottom of the furnace, and the plate was fully as thick as that [indicating].

By the CHAIRMAN :

Q. That is 18 inches across?—A. I should think fully 18 inches across, and I should think in the middle of the plate it was 3 inches thick. I had to have it cut in two pieces, as I was going to take it to New York to show it to Mr. Garth. I called in the blacksmith and had it cut in two pieces, which I packed in a pack-saddle, one each side, and in entering Mazatlan they were taken from me. They were afterwards recovered and sent to New York. What the value proved to be I do not know. If I have ever been informed it has escaped me. It was represented to be small, I think.

By Mr. FOSTER :

Q. Can you approximate the value?—A. No, sir, I can not; somewhere near \$300 it is said. I don't know.

Q. How does that correspond with your recollection?—A. I did not assay them or weigh them.

Q. Well you could form an idea whether it was \$100 or \$1,000, could you not?—A. Well, looking at them, I thought when they were taken from me I had vastly more than that, for I trusted there was largely of gold in it. I thought that and was surprised when they told me it only turned out so small. I never saw them afterwards.

Q. Did you take any other silver from the mine than that reduction you describe?—A. I never have; I left immediately afterwards.

Q. And that was the only result the company received from the mine?—A. Up to that time.

Mr. FOSTER. I want now to enter a little upon his estimate of the character of the ores.

The CHAIRMAN. Before you enter upon that allow me to ask a few questions in order that I may comprehend exactly. Was that the first crushing of the ores the mill had made during your administration of affairs?

The WITNESS. Yes, sir; there had been no ditch. The ditch was a long work; the rainy season came in and masonry could not be carried on.

Q. Did you commence to crush the ores as soon as your mill was ready?—A. Yes, sir.

Q. How shortly was that before you left the hacienda?—A. Only a week or two; I can not say exactly, but it was not long. It was almost precedent to my leaving. I think I left immediately—that is, twenty-four hours perhaps, after receiving the plancha from Mr. Rice.

Q. Who took this silver from you in Mazatlan?—A. It was taken by the custom-house officers, outside the city.

Q. On what pretext?—A. That it was being smuggled. I had it hidden in the padding of the saddle.

Q. Smuggled out of the country?—A. They were pressing me continually to send bullion to New York, and I had written to Mr. Garth about that and told him I wanted specific orders to tell me to do it, but I determined to run the risk.

Q. What risk was there?—A. The risk was the non-payment of the export duty.

Q. Were you trying to get it out of the country without the payment of duty?—A. Yes, sir; I was running it into the city intending to just turn it over to the banker and have him arrange with the custom-house.

By Senator BROWN:

Q. What was the penalty?—A. I don't know.

By Mr. FOSTER:

Q. You had a reason for that, had you not?—A. I wanted to get it to them just in its original shape.

Q. And if you paid the duty would it be permitted to go in that shape?—A. No. If I had sent it to Durango—this was the information upon which I acted—I had to take that rough silver to Durango to have it minted, and trust to them to determine its value. They would not trust my valuation; the mint officers would say for themselves, and unless the amount of gold in that plancho exceeded a certain proportion they would simply give you so many dollars, and then I would have the trip down to the coast, and in addition to that there was the duty of 5 per cent., as I understand, export duty to send it out of the country, and then it would come out only in the shape of dollars, and dollars were plenty in New York. That is not what they wanted. They wanted the crude silver, and I resorted to this, and nearly got it in. It

had passed the custom house officers; had the silver just outside of the town; had it taken out of the rolls of the blankets that we carried it in on the back of the pack-mule. I had two large valises that I took with me from New York, and I had brought one piece in each valise. Outside of Mazatlan there is a low growth. We drove into this low growth and put the silver in the pads of the saddle. We cut slits in the flap apiece on either side. I had but the one mule.

By Senator BROWN:

Q. Did you finally get it through?—A. No, sir; I did not. When I got to a pond I stopped to water and told the boy to go to the banking-house of Echenique, Peña & Co., and he kept straight on, and I rode up to the custom-house, which was on one side. There were three or four soldiers about, and the custom-house officer asked me: "What is in that valise?" and I told him clothing and books. He felt around to see if I had anything about me, and I was going away when one of the men leaning against the house (the man had turned off from the house with the valise) said in Spanish to the officer: "You have not examined the aparejo," and he called me back and said: "Take off the aparejo," and when I heard him I saw it was up, and said: "Come here, I want to speak to you," but he said: "No, it is too late now; all these men have seen it." So I said: "Very well, I am going down to the house of Echenique, Peña & Co. Where will that silver go?" He said: "It will be taken down to the custom-house and given to the proper officer there."

I went into the banking-house of said Echenique, Peña & Co., and told one of the firm what had happened and he said: "You were a fool to do it that way. That was no way to do it, but you should have left it outside and ridden in to me to take care of it." I told him exactly my motives. I said it was not to avoid payment of duty, the money I would pay, but I wanted to accomplish my object of getting that crude silver to New York in its then state without having any treatment at the mint. It was not a question of evading duties. I went down to the custom-house and told the officer, Mr. Sepulveda. He said that he understood that perfectly well, but the law had to be complied with, and it should be complied with. Just then I came away as the steamer was on the point of sailing, and left the silver, but it was afterwards sent to New York.

By the CHAIRMAN:

Q. In the form in which you left it?—A. I presume so.

The subcommittee adjourned to meet Friday, September 28, 1888, at 10.30 a. m.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., September 28, 1888.

The subcommittee met pursuant to adjournment. Present: Senators Morgan (chairman), Dolph, and Brown; Messrs. Samuel Shellabarger and J. M. Wilson, of counsel; Sumner Stow Ely, secretary of the La Abra Silver Mining Company, and Hon. John W. Foster and Robert B. Lines, representing the Government of Mexico.

TESTIMONY OF JULIUS A. DE LAGNEL—Continued.

The CHAIRMAN (Senator Morgan). Mr. Foster, you can proceed with the examination of Mr. De Lagnel.

By Mr. FOSTER:

Q. You will please state the progress, during your superintendency, in mining ores, the character of the vein, and the value or quantity of ore extracted.—A. It is impossible for me to give specific distances or amounts; I have no means of knowing from my memory. I understood the ores were sulphurets of silver, containing a certain amount of gold. I speak now referring particularly to La Luz.

Q. You mention the La Luz, but there were a number of mines?—A. The question embraced a number of mines, but I now speak of La Luz particularly.

Q. Give the character of the veins you refer to, La Luz especially, as you found out by working the ores in extraction from time to time.—

A. To the best of my recollection the quartz veins were about 6 feet wide; no fixed width, the width being irregular at times, but the general vein would be, I suppose, about 6 feet wide.

Q. What was the character of the veins; were they regular and uniform, or did they increase and decrease as the work progressed?—

A. I can only say that at times it was decreasing, and it was increasing at other times. You are speaking now of the vein, or the appearance of the silver in the vein?

Q. Give us as to both. I want to get from you a general idea of the character of the veins.—A. The character of the vein was quartz; it was a quartz vein, as well as I recollect, between solid walls. The width of that vein varied at times, and the amount of ore observable differed greatly from time to time. I have seen it as much as 2 feet wide; it was a dark matter, but I took it for granted from what the head miner said that there was silver there. I have seen it at times pinch out or taper out to mere threads.

Q. When it tapered out to mere threads, as you say, are we to infer that you extracted very little silver?—A. Of course so, sir. There was nothing but the dead rock that came away from the blasting in endeavoring to reach the vein.

By Senator BROWN:

Q. Is not that very common in all sorts of mining?—A. I believe so, but I have not had experience enough to answer with certainty as to all kinds of mining; I have heard of it.

Q. You will find it in gold mining, what they call a fall, where it will squeeze out to almost nothing, and then get very much larger.—A. I will observe that in this very mine—I think it is in this mine—there is one point where it is nearly double the width of an ordinary vein; they call it a chimney, if I recollect; it took up some distance, where they scooped this out overhead.

By Mr. FOSTER:

Q. You speak of the La Luz mine especially; why do you do that?—A. Because my main work was in that, coupled with the Cristo, and it was the principal mine worked when I arrived there.

Q. And was so during your superintendency?—A. Yes, sir.

Q. When you arrived at the mine, state what quantity of ore, or whether there was any quantity of ore already extracted.—A. When

General Bartholow left and I took charge there was a large amount of ore, how much I can not say, piled up on the old patio, and there was another pile from another mine a short distance off, and placed by itself. The amount in these several piles I can not state, positively, because I do not remember.

Q. What representations did you receive upon your arrival as to the value of that ore extracted?—A. The estimate placed upon it was high, undoubtedly.

Mr. WILSON. Does the committee allow that kind of testimony, representations that somebody made to him as to the quality of that ore?

Mr. FOSTER. I will confine the question more accurately to his predecessors or other employés of the company.

Mr. WILSON. I object to any such interrogatories.

Senator BROWN. Would you say employés of the company or officers of the company? A day laborer is an employé of the company, but he would hardly have any right to make representations to bind the company.

Mr. FOSTER. We have entered upon an examination of the witness in order that the committee may inform themselves as to the general condition of the affairs at the mine and the condition of the ores as well. I want to have this ex-superintendent of the company state how he entered upon his duties, what he found there, and what he understood as to the condition of affairs when he took charge of the mine.

Senator BROWN. I do not understand that that is objected to.

Mr. FOSTER. That is my object now.

Senator BROWN. The objection is as to the term "employés of the company," that including everybody that was in the employ of the company.

Mr. FOSTER. I apprehend there was nobody else there who could give the information. The president and secretary of the company knew nothing about it.

The CHAIRMAN. The witness stated that when he was at first spoken to about being employed there as superintendent of the mine he informed the president of the company and Mr. Garth, the treasurer, that he was not an expert miner, that he knew nothing about it. He was then informed that there was a head miner there who was a skilled man, and was placed by the company in charge of the mine. He stated also that when he went out there he conferred with the skilled men as to the condition of the mining part of the business, and also as to the separation of the ores, with a view of saving those that were valuable and throwing away those that were not.

Senator BROWN. I was not objecting to his giving any statement of the boss miner or somebody who was an officer representing the company, but only to the broad term "employé of the company."

The CHAIRMAN. We could only regulate that by confining his answers.

Senator BROWN. He had better state who it was made the representations.

Mr. WILSON. I am very much embarrassed, Mr. Chairman and gentlemen of the committee, by the fact that I have heard but very little of what has transpired before the committee.

The CHAIRMAN. The testimony is all in print.

Mr. WILSON. But I have not had time to read it, and a copy of part of it was only placed in my hands within a few minutes.

Now I apprehend that this investigation looks certainly to one of two things: Either that you are going to determine whether there is sufficient ground to warrant the granting of a new trial in this case, or

you are trying it *de novo*, one or the other. There has already been a trial and judgment upon the evidence that was submitted. Now, if the inquiry is as to whether a new trial shall be granted, then you want to know that the evidence upon which you proceed to grant that new trial, in whatever form you see fit to act, will be such evidence as some court would consider competent to be given in its investigation of this case in its trial over again; and I apprehend that this committee does not desire now to send these parties to a court to litigate this thing over again upon testimony that no court would receive or consider for a single moment. If you are trying the case over again, then as a matter of course we have a right to have it tried upon competent testimony such testimony as in the wisdom of the ages has become to be regarded as proper upon which to determine the rights of contesting parties. So that whatever view you may take of this case, whatever the purpose of this investigation may be, I most respectfully submit that what you hear should be of that character of testimony that would be competent for a court to determine grave questions upon, such as this. Therefore it seems to me to be here, as of all other places, eminently proper, fitting, necessary, and just that whatever evidence is submitted shall be evidence such as would be competent to be heard by a chancellor or a jury for the purpose of determining the rights of parties.

This testimony that is sought to be elicited here, Colonel Foster says, is for the purpose of giving the committee information—information that comes through two or three hands, probably, and from utterly irresponsible parties—parties who have no right, by anything that they say, to bind or affect the rights of this company. I therefore at this point direct the attention of the committee to these matters, and respectfully submit that competent evidence, and only competent evidence, as we understand it, shall be admitted here.

The CHAIRMAN. What particular part of the inquiry do you regard as incompetent?

Mr. WILSON. In the first place, I do not know what shape the question will ultimately take, but the question now asked him is what information was given him; what representations were made to him. Whether those representations were made by some person who had no connection with the mines; by some man who handled a paper or a spade in these mines—some man who carried ore up ladders in these mines; whether it comes from that class of people, or from somebody who was authorized to speak for the company, I do not know. I only venture to say that such a question would not be permitted in any court of justice.

The CHAIRMAN. I understood that the question was so modified as to call for information he had derived from persons there in the employ of the company and accredited by the company.

Mr. WILSON. I have not seen or heard any such question as that.

The CHAIRMAN. Do you modify your question in that way, General?

Mr. FOSTER. I do so modify it.

The CHAIRMAN. I so understood.

Mr. FOSTER. My friend Judge Wilson has entered upon a broader field of suggestion than that occasioned by the question, and I would like at this point to say a word, which I had intended to say in regard to the scope of this inquiry. I do not understand that we are engaged in a *nisi prius* court; in a trial before a jury of the county; before laymen, uninstructed in the force of evidence. Nor are we before a municipal tribunal, governed by the technical rules of evidence. But I understand this to be an inquiry created by a resolution of the Senate of the United

States under very broad power, as has been stated by Judge Shellabarger already; and we are fortunate in having had designated by the Senate three gentlemen to conduct the investigation who have a national reputation as trained lawyers; who understand what the force of evidence is; what force ought to be given to it. But I understand this inquiry to be to determine what shall be done with a sum of money which is now lying in the hands of this Government, in the Treasury of the United States; and the President of the United States has called upon Congress to take some action in that regard, and he has in his wisdom recommended that the matter be submitted to the Court of Claims or some other court. This committee are now engaged, as I understand it, in ascertaining such facts as may be necessary to inform the general Committee of Foreign Affairs on this subject, so that the Senate may be advised as to what course ought to be taken in the present condition of affairs; what should be done with that money in the Treasury; and I think this rather a waste of time for either my friend Judge Wilson or myself to attempt to instruct this committee on the subject, and we lose time by these objections.

Senator DOLPH. I am not prepared to say that the investigation should be confined to testimony that would only be competent before a court of justice. I suppose it may be a pertinent question as to the value of the ore which had been mined and ready for reduction at the time when this witness became superintendent of the mine. He is competent to speak of that, and that could be proved by his own testimony or by the testimony of any person competent to speak on the subject. It may also be important to show what the company understood or supposed to be the value of the ore. That could be proved by the declarations of the members of the company authorized to speak for it. In that view of the case I suppose the declarations of Mr. Bartholow, the superintendent or head miner, might be competent testimony. I can not conceive how it would be important even for the committee to know what the employes of the company stated or thought in regard to the richness of the metal or the ore unless they held some position in the company that would authorize them to speak for it and to represent the company for the time being. Therefore it would be, I think, for the convenience of the committee and would tend to the elucidation of questions of fact if we should confine the question to such statements. I suggest that I can not conceive that there can be any objection to asking to what Mr. Bartholow said or what the head miner said.

Mr. WILSON. My point is simply this: If the object of this inquiry, as now stated by Colonel Foster, as I understand, is to send this case to some court—it having already once been tried—to be tried over again, then the committee wants to know that there is legally competent evidence sufficient to justify a thing of that kind. Upon mere rumors and things out in the air, it would be idle to send such a case back to a court for trial. Therefore what the committee is concerned to know is whether there is competent evidence, and sufficiently competent evidence, taken in connection with the testimony that has already been heard in the former trial, to warrant the committee in recommending the Senate to do the extraordinary thing that is here proposed.

The CHAIRMAN. Statements made by persons in the employ of a company in the transaction of its business are always competent to show what the state and condition of that company was. The company, by intrusting these men with its affairs, accredits them to that extent. The committee will have no difficulty, I think, in discriminating between what would be mere hearsay evidence of an unauthorized person and

what would be legitimate statements made by a person who was, from his relations to the company, authorized to speak for it. The general scope of this inquiry of course has reference to the question whether the money is to be paid to the La Abra Silver Mining Company by the United States, and it is admitted on all hands that some action by Congress is necessary to enable the Secretary of State to do so. That is the conclusion at which the Government has arrived, and I believe this branch of Congress at least has assumed that attitude now, because a joint resolution or concurrent resolution is now pending here instructing the Secretary of State to pay this money to La Abra Silver Mining Company. The resolution of the Senate has been read here instructing us to make inquiry into this case with a view of informing Congress of the state of facts, so that Congress may take whatever action it is advised is proper in the premises.

Now, the question is whether a new trial is to be granted, or rather, whether this subject is to be investigated in our domestic tribunals to ascertain what is the duty of the United States. That is a broad question, and one upon which I should think the Senate would like to be informed as to the whole state of the case. This witness has not heretofore been examined in the matter, except *ex parte* at the instance of Mexico, with a view of identifying this book and raising a diplomatic question with the United States about the proposed disposition to be made of this money. This is his first appearance in anything like an inquiry where both sides have an opportunity of being heard. He comes forward with a book of correspondence, kept at the hacienda of the company in Mexico, in which appear letters written by three agents of that company, Barthelow, De Lagnel, and Exall, and perhaps other letters written by Granger—a man who was there, we have not as yet found in what capacity exactly. Now the examination is pursued with a view to show, as I suppose, that the description given of the conduct of the business and the situation of things in many particulars as disclosed by the correspondence was the actual state of facts as they existed at the time, and that these agents—at least so far as Mr. De Lagnel knows—were not making to that company false representations, that what they said about it was true. The condition of the mine, as to its yield, as to its depth, the quantity of débris that was in it, the difficulties of mining, and all the other surrounding circumstances that bear upon questions of extent and the facility of conducting business of this kind, it seems to me are legitimate subjects of inquiry for this committee to make, with a view of ascertaining whether or not the matters stated in this correspondence, which Mexico alleges are newly discovered evidence, were truly and correctly stated at the time by the respective agents of the company.

When we come to consider this case and report it to the general committee, as I suppose the general committee will also do when they come to consider and report it to the Senate, we will be compelled of course to separate between these portions of the evidence which are new and those which were before the arbitrators at the time this claim was considered, and we will be compelled to ascertain how far Mexico was delinquent in not presenting this evidence in defense of the claim, and whether thereby she has forfeited her right to have a re-investigation. But we can not anticipate at this stage of the inquiry how much of this evidence will be new and how much will be of a character that Mexico had and used or could have used if she had been sufficiently diligent in the pursuit of her rights. So, I take it, that the subcommittee ought to go on and investigate this matter, not upon hearsay testimony, not upon

testimony that would not be accepted in court, but upon testimony that would be legitimate in a court, having reference, however, to the general condition of the company and its affairs, so that we can fairly and properly present it to the consideration of the general committee. That is my view of this question.

Mr. SHELLABARGER. That is very satisfactory, and it enlightens us now as to the line of examination which this committee think would be competent in a trial of such an issue in the court.

Mr. WILSON. That is my point exactly.

Senator BROWN. I do not agree with the chairman that any witness in the employ of the company is enabled to give any evidence against the company in any investigation. There may have been a Mexican employed by the company two days before the colonel, who is now being examined, was inducted into office, who had no knowledge of mining, knew nothing as to the character of the ore, and was entirely ignorant of the affairs and business of the company. Still he may have been treated as an employé by the company. I could not consent to the proposition that such evidence as that should be taken.

The CHAIRMAN. I have not advanced that proposition.

Senator BROWN. Your proposition was that he must be an employé of the company in order to testify.

The CHAIRMAN. No; I refer to those who were there accredited by the company with respect to a particular subject-matter, in reference to which they were employed to conduct. I should think the conductor of a mule train might very well speak of the condition of a lot of pack-mules, and the manager of the mines might speak of the condition of the mines, and what he said would be received, because the company put him in an attitude to make statements.

Senator BROWN. The superintendent of each branch of the business.

The CHAIRMAN. Or any other person might be sufficiently skilled.

Senator BROWN. The superintendent of each branch of the business, I suppose, must speak for that business, and will have a right to speak for the company, and it would be bound by what he said; at least it would be evidence against the company.

The CHAIRMAN. Let us get at the merits. What is the question?

Senator BROWN. As this is an investigation for the purpose of determining whether we ought to refer a question to the Court of Claims to investigate and determine whether there shall be a new trial in this case, I could not consent to the consideration of any evidence here that could not be considered in the Court of Claims in the trial of the case, if it was so referred. It seems to me anything outside of that is encumbering the record unnecessarily and is not proceeding according to rules of law.

The CHAIRMAN. I have heard of no effort to put anything of that sort on the record. The objections are in advance of the statements made by the witness.

Senator BROWN. Not in advance as to the question I objected to. The short-hand notes will show, if they are referred to, that Colonel Foster's question had reference to the employés of the company.

Mr. FOSTER. The object of my question is this: To have the committee ascertain what the condition of its affairs was, as its superintendent understood it, at the mines when he came to the mines, and during his superintendency. Now, the statements of an employé of the company are to be received or not according to the character of those representations. That I grant. A miner can not bind the company by drawing a draft upon it, or by making promises which will incur an ob-

ligation on its part. But it seems to me that the statement of a miner to the superintendent as to what he has seen in the mine is a matter that it is proper that the superintendent should state here as competent evidence as to the condition of affairs there.

Senator BROWN. If he were on the stand and were being sworn, where he was subject to cross-examination, that might be good evidence, but it seems to me his statements ought not to be given in against the company here.

Mr. FOSTER. It is a statement of fact as to what he found in the mine, what the character of the vein was, what water he found, and the like of that, as he reported to the superintendent.

The CHAIRMAN. What is the question to the witness?

The stenographer read the question, as follows:

What representations did you receive upon your arrival as to the value of that ore extracted?

Mr. FOSTER. That question was modified, at the suggestion of Judge Wilson, so as to include "from the superintendent or other employes of the company."

Mr. SHELLABARGER. "Other employes" would take in a common day laborer.

Mr. WILSON. That is my objection.

Senator BROWN. The committee overrule me; but I object to the evidence of employes unless they were in some way authorized to represent the company.

Mr. SHELLABARGER. Let me say this: We look at the late decisions of the Supreme Court of the United States on this subject—and I think Senator Morgan has stated them very accurately—and, fortunately, if we want light on the subject, they happen to be very full and very late. There is one decision in 20 Wallace, and one in 114 U. S., and so on; and there is no doubt about it. The rule is this: That an employe or agent can only speak touching matters coming within his prescribed duties. A thing that his employment requires him to do he may talk about, but he can not talk about it in the way of narrative; it must be utterances made at the time, and so connected with that duty as to be what we lawyers call *res gestæ*. The Supreme Court has held explicitly and repeatedly and uniformly that an agent can only state in regard to things that he has to do with, and his words must be such as were uttered at the time; not a mere narration.

The CHAIRMAN. Now we will hear what the witness has to say, and we will exclude all that does not come within the ruling of the subcommittee.

Senator BROWN. Do you desire the witness to proceed?

The CHAIRMAN. Yes.

Mr. FOSTER. Proceed to answer the question as modified.

The question as modified was read by the stenographer as follows:

What representations did you receive from your predecessor or other employes of the company upon your arrival as to the value of that ore extracted?

Mr. WILSON. Allow me to suggest that you add to that question "and from whom?"

Mr. FOSTER. And from whom?

Mr. WILSON. Then you will probably get at the marrow of this thing.

A. I do not remember. I could not state any specific mention by any individual as to any specific value of any ore. I can only recollect the general impression created on my mind.

Mr. WILSON. To that I object.

By the CHAIRMAN:

Q. Did you gather that impression from the mining engineer—or I believe they had no mining engineer there———A. No, sir.

Q. From the miner in charge?—A. I had it from talking a little with General Bartholow, and the head miner, George Cullins, and from time to time with the Mexicans; but you would not regard that as evidence. I recollect this much, that he had a pile set aside by itself to which he called my attention and told me that that had a specific value.

By Mr. FOSTER:

Q. He? Who?—A. General Bartholow told me that he had marked out some hundreds per ton; I think he told me how many, but I don't recollect. This immense pile was the average ore that was coming down. I regarded the immense pile as being worth \$100 a ton and upwards, and the other was several hundred dollars a ton. I can not say that General Bartholow uttered that to me in so many words, for his words I do not recollect.

By the CHAIRMAN:

Q. That is the impression made upon you from your conversation with him?—A. From my conversation with him and with George Cullins, the head miner.

Mr. FOSTER. We will not press the inquiry further.

The WITNESS. I have no personal knowledge.

By Mr. FOSTER:

Q. Were there assays of the ores extracted made from time to time during your superintendency; and, if so, what were the results of those assays? Begin at the beginning and go through from time to time to the close of your residence there.—A. When I arrived I found that there were no means of assaying in the hacienda or within immediate reach. The first assay made was soon after General Bartholow's departure, probably within a month. I had to go 12 miles to do that, and to take specimens of the ground in bags, which specimens had been pulverized at my request, to a place where I had facilities. The assays were made, and the report was made to Mr. Garth.

Q. What was the name of that place?—A. The place was called La Puerta.

Q. Did it belong to your company, or to some other company?—A. To some other company.

Q. What other company, if you remember?—A. I do not remember. We always spoke of it as La Puerta.

Q. Proceed.—A. There the matter rested for some little while. I came back well satisfied. I can not state now from recollection what the value was, but it was such as to satisfy me.

Q. Satisfied you on what point?—A. As to the value of the ore, the work of its extraction, its beneficiation and forwarding in New York in money. Some time afterward, in correspondence with Mr. Garth, in one of his letters he wrote to me and questioned whether I had not been imposed upon.

Mr. WILSON. One moment. Have you that letter?

The WITNESS. I have not, sir. I have no letters of Mr. Garth; I never kept any of his letters. I think I had private letters, but I have not even one of them now.

By the CHAIRMAN:

Q. What has become of them?—A. I could not tell you whether I

threw them away or not. That was years ago, and I have no record or papers of any kind now in my possession.

Q. Are they lost beyond your power of recovery?—A. Yes, sir; I do not think they are in existence at all.

Mr. WILSON. I respectfully submit, Mr. Chairman, that it is not a question as to their being lost beyond the power of recovery by this witness. The question is whether the Mexican Government has them in its possession and can produce them.

The WITNESS. That I do not know.

Mr. WILSON. The Mexican Government should be required to produce these letters or account for their loss before they can enter into any investigation or give any evidence as to their contents.

Mr. LINES. They are your letters. Are we to be called upon to produce them or account for them?

Mr. WILSON. Our letters that were written to this gentleman, and that we say are in your possession.

The CHAIRMAN. Do you assert that as a fact?

Mr. WILSON. I assert this: that the books and papers of this company went into the possession of the Mexican Government, just as they got these letters that we have seen here. They were left there at the hacienda as part of the record in this case, and the Mexican Government got possession of them.

Mr. LINES. That is denied.

Mr. FOSTER. I shall have something to say on that point when Mr. Wilson is through.

Mr. WILSON. I say that it is for them to account for these letters, and not for us.

The CHAIRMAN. I wish you would read the question, Mr. Secretary, if you please.

The stenographer read the following answer of the witness:

As to the value of the ore, the work of its extraction, its beneficiation, and forwarding to New York in money. Some time afterward, in correspondence with Mr. Garth, in one of his letters, he wrote to me and questioned whether I had not been imposed upon.

Senator DOLPH. In consequence of a letter received from Mr. Garth, the witness can state that he was induced to do so and so, without undertaking at this time to give the contents of the letter.

The CHAIRMAN. I wanted to find out how the objection arose.

Mr. WILSON. He was proceeding to speak about these letters, having written so and so, and that is where I interposed my objection. Now what Senator Dolph suggests is certainly something that I do not object to. He can say that he received a letter from Mr. Garth, and in consequence of that he can state that he did so and so.

The CHAIRMAN. As I understand it, Mr. Wilson objects to Mr. De Lagnel speaking of the letter which he received from Mr. Garth unless that letter is produced. I understand that that letter has not been traced to the Mexican Government in any way. [To the witness.] Did you give that letter that you received from Mr. Garth to the Mexican Government, or leave it there?

The WITNESS. I certainly did not give it to the Mexican Government, but when I came away I left those letters there, with others. I recollect tying up Mr. Garth's letters together with a tape and handing them over, with the other books and papers, to Mr. Exall. When I delivered the papers it was done on inventories and receipts. He knew what was there and he signed receipts. The last I ever saw of the books they were in his hands. Whether I left these private letters

there I can not tell now. Possibly there might not have been more than two or three of them. There may be one of those private letters in the letter-book; I will not say it is not. But if it is in the letter-book it will be found.

Mr. FOSTER. I do not want the Senator to fall into any misapprehension from the statement of the opposing counsel. I want to protest against the statement that these books and papers were in the possession of Mexico during this trial. I want to say, on the other hand, that the testimony produced on that trial before the commission shows that the letters were in the hands of the company or its agents and under their control. Now, among others, they produce as one of the five only original documents that were ever submitted to that commission a letter written by a Mexican official to the superintendent of the mines, calling upon him for a forced loan. They produce that original letter. How did they get it? They got it from Mr. Exall, who was left in charge of the mines. He had possession of the books of the company, and he was the man left in charge. Granger produced this original letter. Where does he get it? He must have obtained it from the files of the company. The only document that was ever produced on that trial was brought out by these claimants from their own agent and laid before the commission. They had the books and documents, or they were in their control at that time if they were in the control of any person connected with this case. But I utterly deny that Mexico had any control or any knowledge of them.

Senator DOLPH. The question is my mind does not go to the custody of the letters at the time of the hearing before the commission. It is as to whether there was anything now before this committee, or of which this committee—if I may use the term—had judicial knowledge, to show that the letter had ever before or subsequently come into the possession of the Mexican Government.

Mr. FOSTER. There is no such case.

Senator DOLPH. I have seen a pamphlet—I have not read it—which appears to contain letters. I suppose, without having examined it, that that is the showing made by the Mexican Government to the Government of the United States when this Government was asked to withhold the payment of this money. I do not know but this committee might examine that and treat it as evidence before it, it being an official document. My mind is more particularly directed to the point as to whether or not that statement showed that the Mexican Government had come into possession of these two letters or the letters which had been written to this witness or other superintendents while in charge of the work.

Mr. WILSON. Now, Mr. Chairman and gentlemen, as Colonel Foster has stated his side of this matter I want to state our side. When he says that these things did not come into the possession of the Mexican Government, possibly in a technical sense that may be true. But it is a mere play of words. The Mexican Soto and this man Granger and their associates took possession of this hacienda and all the books and papers of this company, and that is why they got this letter-book; and Granger got to be the son-in-law of this man Soto, and they had these books and papers in their possession.

Mr. FOSTER. In the possession of Granger and Soto.

Senator BROWN. The witness states that the letters and books were turned over.

Senator DOLPH. In ten or twenty years they may have been turned over a dozen times or destroyed.

Mr. WILSON. That is my point. They might have been destroyed, and they have not shown that they have not been. They have not shown that they can not produce them, and this witness has not said that he has made any search for them.

Senator DOLPH. You have not shown anything here, that the committee can take judicial notice of, tending to show that the Mexican Government had those original letters.

Mr. WILSON. The witness stated this: that those letters were tied together by him and left with Exall, with the books there, and beyond that he has not made search for them. Now, they have not shown where these letters are; they have not accounted for their absence; they have given us no notice to produce them; and yet they are proceeding to give the contents of a letter, the absence of which is not accounted for.

Senator DOLPH. I agree that that ought to be excluded for the time being. But then comes the question, Have you traced the letter to the Mexican Government? I still assert that, so far as the statements I have heard are concerned, the letters have not been traced further than where this gentleman leaves them, in the hands of Exall.

Mr. WILSON. Pardon me, Senator, one moment. We have traced them to this extent; the books and the letters were turned over to Exall; the books that were turned over with the letters we find in the possession of the Mexican Government, and presumptively they have all the others.

Mr. FOSTER. Presumptively!

Senator DOLPH. I can not see the force of that presumption.

Mr. FOSTER. I want to cite one piece of evidence, not presumptively, but as a matter of fact; one established by the claimant himself. I refer to pages 52 and 53 of Granger's deposition, brought forward by the company, in which he produces and makes exhibits to his deposition one copy of letter and three other original letters that had been sent to the company.

Mr. SHELLABARGER. Is that part of the testimony that was before the commission?

Mr. FOSTER. Part of your testimony; Granger's deposition, brought forward by you.

Mr. SHELLABARGER. I want it to be understood, as you apparently seem to regard it, that all the old testimony that was before the commission is to be now regarded as in evidence and available for this examination.

Mr. FOSTER. I accept that.

The CHAIRMAN. I do not think the committee has had any other idea. The testimony has been heretofore considered in the case.

Mr. FOSTER. I understand that the committee is going to take judicial knowledge of all the matters that have been sent to them by the President and that are in the hands of Congress?

Mr. SHELLABARGER. That includes the testimony.

Mr. FOSTER. Yes. Mr. Granger, in the printed book, at pages 52 and 53, presents this original document from the files of the company, which had never been out of his possession.

The CHAIRMAN. Does Granger show in his deposition that he was the agent of this company?

Mr. FOSTER. This letter-book shows that Granger was left in charge of the mines by Exall. Just what he swore to as to that point in that particular deposition I am not prepared to state.

The CHAIRMAN. Is there anything there to show that the company

recognized him as being in charge of their property with their authority and consent?

Mr. SHELLABARGER. I think not.

Mr. FOSTER. I have no knowledge just at present.

The CHAIRMAN. I wish to observe that in some debate that went on here, when counsel for the La Abra Company were present, a statement was made by myself that the La Abra Company had it in its power, as I supposed, to bring forward the correspondence between that company and its agent in Mexico at the mines, and that it was desired that it should be done. Following that statement, Mr. Ely, who holds at present some official relation to the company—I do not know exactly what—sent his statement under oath to the committee.

Mr. SHELLABARGER. Has that been found?

The CHAIRMAN. I have not myself found it. It has been in my possession, but I have been moving my residence to another house in town, and I really have not had an opportunity to look through the papers for it. I intend, however, to make search.

Mr. SHELLABARGER. The clerk told me that he could not find it.

The CHAIRMAN. I think the clerk handed it to me.

Mr. BABCOCK (the clerk of the committee). I do not remember seeing it at all.

Mr. SHELLABARGER. My book shows that I sent it on the 15th of June.

Mr. FOSTER. Have you a copy?

Mr. SHELLABARGER. No; not of his affidavit, for that was a long paper.

The CHAIRMAN. The substance of his affidavit was that he had made very diligent search for the papers of the company in New York, and, as I remember it, that he was not able to find any at all.

Mr. SHELLABARGER. Away back, years ago, if I remember rightly, before any controversy arose at all, before that law of 1878, and when no special value was attached to the papers, they were boxed up, as they generally box up the papers of an obsolete concern like this that has gone out of existence and has not anything except its award to look after, they were boxed up and put away in somebody's room. That man will be here and will tell us all about it. They were lost, as we think, beyond recovery before there was any motive for losing them, before anybody knew there was any quarrel about this thing.

The CHAIRMAN. I refer to it for the purpose of showing the strong probability that these letters which Mr. De Lagnel received from Mr. Garth, and from other persons connected with the conduct of the business of that company, were lost. But we are not occupying our time profitably, as I understand it, for the contents of the letters have not been asked for. The witness, as I understand, is not about to state the contents, but that in consequence of receiving a letter from somebody he proceeded to do something.

Mr. FOSTER. I want to call the attention of the committee to the fact that on the page following 125 of the letter-book, which the colonel has identified as his letter, there is an acknowledgment of a letter of Mr. Grath, to which he refers, and he goes on to give his explanation there. It is one of those pasted letters, not paged following page 125.

Mr. SHELLABARGER. What page of the book?

Mr. FOSTER. I read from page 57 of the book, as follows:

As to the circumstances mentioned in your letter, that certain parties had stated that the specimen ore had been "salted" for my especial benefit and deception, I can only refer you to the mention made of it in one of my letters, I forget which, but that it was done purposely is more than I am prepared to say.

If I understand the term as used by the miners, the facts are not as stated.

I understand the colonel proposed to go into this matter a little.

It is, however, true that, though I requested to have the second-class ore of the *Luz* mine crushed for assay, specimens were taken from the first-class pile and prepared for my use, but I can not say that it was designedly done.

As already stated, the ore has been and is being repicked, and though a large quantity is pronounced without value, I do not assert it as Gospel truth, but will satisfy myself of the fact by trial.

Senator DOLPH. Do you wish to call out the contents of the letter at this time? The question does not call for them.

Mr. FOSTER. He proposes to answer the question in his own way.

Senator DOLPH. I think he may state that, in consequence of a letter he received from Mr. Garth, he did something else.

Mr. WILSON. I have no objection to that, and have not had.

The CHAIRMAN. Now, let us go on with the testimony. We will never get through with it in the world if we do nothing but debate objections and controversies about the receipt of letters. Proceed, if you please, with your examination.

By Mr. FOSTER:

Q. Do you remember where you left off in your testimony?—A. No, sir.

Q. You were stating that you received a letter from Mr. Garth, and in consequence of that—A. You asked me if I had ever made assays, did you not?

Q. Yes, or if assays had been made, and whether you had forwarded a letter to Mr. Garth and had received a reply.—A. That is the general impression on my mind, that the results were satisfactory to him, and I supposed they would be to me. I want to say here that in narrating this I recollect it in a certain way, but I am not sure of the sequence of events. I can not help that for I have no data to go by. It may have been previous to this, or just after General Bartholow left. One man, Manjarres—I didn't know that there was but one man of that name—came in to see me, introduced himself, or was introduced, and I took it for granted that he was the one who had been associated with old Don Juan Castillo, and after talking a little while I asked him in regard to the mine.

Mr. WILSON. Who is this man? What has he to do with our company?

The WITNESS. I was simply mentioning—

Mr. WILSON. Did he have anything to do with this company?

The WITNESS. I don't know who he was; I was simply going to tell you what prompted me to repick that ore.

Mr. FOSTER (to Mr. Wilson). I do not think you are going to affect the minds of these experienced gentlemen.

Mr. WILSON. There is a right way and a wrong way to do things, and I would like to have them done the right way.

The WITNESS. I had the ores picked on the second time.

Mr. FOSTER. Go on and tell your story as you choose unless you are interrupted by the committee.

Mr. WILSON. I would like to say to the committee that he is stating that he had a conversation with one Manjarres, and I object to his giving that conversation; but if they want to prove what he did after having had this conversation I have no objection.

The CHAIRMAN. That is right, I think.

Senator DOLPH. He may say that in consequence of the conversation he did something.

Mr. WILSON. To that I have no objection.

Senator BROWN. You must not state what the conversation was between you and him, but as a consequence of that conversation you can state what you did.

The WITNESS. Simply, then, in consequence of the conversation, having doubts—

Mr. FOSTER. Having doubts as to what?

The WITNESS. As to the value of this large pile of loose ore—I had a party of cleaners come down under the head cleaner and take charge of it to re-clean it. They set aside a very large quantity, a considerable pile, but not at all comparable to the whole. Bartolo Rodriguez was the head cleaner; he assured me that that was valuable and good ore—what valuation he placed upon it I would not now pretend to say—and that the balance was, as a general thing, very poor. There being no means of making an assay at the mines, I made none there, relying upon the product at the mine and the representation of the head miner and his assistants, the skilled Mexicans, the cleaners particularly. The reports from time to time, without recollecting the exact date when this occurred, even from the head miner himself, were in favor of a yield of ore which was small as compared with the mass of rock taken down.

By the CHAIRMAN:

Q. Taken down from the mouth of the mine?—A. From the seam and brought out of the mine. It was taken down and only the good brought down, and the amount worthy of bringing down to the hacienda on the river-level was inconsiderable, so that I transferred the force in great part to the Cristo.

By Mr. FOSTER:

Q. One of the mines of the company?—A. Yes, sir; that being represented as showing more metal in the seam and believed to be of good quality. There were no assays made at the hacienda until very nearly the completion of the mill; when the mill was just about ready to start or was ready to start, we made assays from the batter.

Q. What was the result of those assays?—A. Those assays were made by Mr. Elder; I was present; he reported them as very fair.

Q. Who was Mr. Elder?—A. He had been a workman who helped to erect the mill, a former employé, and possibly interested in this company at La Puerta; I do not know how far. When I was there he seemed to be the sole one in charge—had possession and had been practically working it.

Q. Was he a very competent assayer?—A. That I can not say, sir. I am not so competent myself as to pass judgment upon any one. You can judge for yourself. He had worked as a carpenter at the mill. He had also been working at the mines, and made the assay without any hesitation; seemed to be familiar with the manipulation. I stood by and saw him weigh, adjust, and melt in the cupé—that is the name of the little cup they did it in.

Q. Who was the assayer of the company?—A. There was no assayer.

Q. He was the only one who acted in that capacity?—A. When the mill was completed he was the only one present and competent to put the mill in operation and run it. It was in his custody, and there was nothing else to do but to depend upon him, as there was no one else there competent.

By the CHAIRMAN:

Q. Operating the mill included the assaying, did it?—A. Yes, sir.

By Senator BROWN :

Q. He occupied rather the position of master machinist than assayer, did he not?—A. Well, he was on equal footing with another American employed in the wood work in the mill. Wood work was his specialty, not iron work.

Q. He was master mechanic instead of master machinist?—A. Yes, sir; you may say he was master mechanic, and then he took charge of the mill alone. He was a man who understood the running of the whole thing from the time the water was first turned on.

The CHAIRMAN. And that includes the assay.

By Senator BROWN :

Q. Is it usual for a master carpenter to be an assayer?—A. No, sir; not under ordinary circumstances; but in that mountain country there was nothing else for us to do, and we were forced to have him do it or have nobody do it.

Q. You had nobody else to make it?—A. No, sir. I anticipated getting a man who would be a practical assayer, a man sufficiently acquainted with the combination of different materials to tell what was in a lump when it was presented to him.

By Mr. FOSTER :

Q. What was Elder's full name, if you remember?—A. I don't remember his full name; his last name was Elder.

Q. You do not remember his initials?—A. I do not.

Q. You have just spoken of ores that you had re-assorted; where were they?

The WITNESS. Where were they deposited?

Mr. FOSTER. Where were they deposited; yes.

A. On the Patio.

Q. At the hacienda?—A. Between the hacienda building and the mill, in the square that occupied the space between the two.

By Senator DOLPH :

Q. These were ores that had been brought down from the mouth of the mine for reduction?—A. Yes, sir.

Q. About what part of the ore was set aside when it was re-assorted as valuable? About what proportion?—A. It would be guess-work. There was an immense pile of unassorted, and a large pile of that which was assorted, but as to the proportion of the two piles I could scarcely say.

Q. What was the size of the pile of valuable ore after the re-assortment as compared with the other?—A. It was small as compared with the larger pile.

Mr. FOSTER. You said small as compared with the larger pile?

The WITNESS. I mean in point of bulk, as compared with the original pile.

Senator BROWN. Do you know from what mine the ore was taken when that assay was made to which you have testified?

Mr. FOSTER. By Elder, do you mean, Senator?

Senator BROWN. By Elder.

The WITNESS. When this last assay I speak of was made?

Senator BROWN. The last assay.

The WITNESS. At Cristo.

By Mr. FOSTER :

Q. What was the result of mining from the Cristo mine? You

spoke of going from La Luz to Cristo, because La Luz was not giving results.—A. It was not giving fruit. It was giving rock in plenty, but not silver-bearing rock.

Q. What was the character of the ore extracted therefrom as the work went on?—A. It was more easily mined, and was supposed when it was brought down to contain metal of sufficient value to make it worthy of treatment.

Q. How did it turn out?—A. These assays of Mr. Elder's will speak for it. That is all the experience I had; and that small mass of silver that was extracted from a small number of tons—I don't remember exactly the number of tons, it may have been 8 or 10 tons, something like that—was run through and crushed, and the silver taken from that was sent to New York, and the company know exactly what it brought them; but I never saw it again. That is all I ever saw or heard of it. This Cristo ore was supposed to contain, as I have seen myself and know it did contain at times, quantities of gold. I wrote to Mr. Garth at one time, telling him of the condition of the ore, without saying very much more than just as I have mentioned it here. I remember the wild excitement among the miners, because when the ore was brought down you could see the gold in streaks as large as a big diaper-pin head, little pellets of gold along like fine shot, so as to leave a line of gold.

Senator BROWN. That then was very rich gold ore?

The WITNESS. I took it for granted that that was rich ore. All the miners seemed to be in a state of excitement. They found it out by sinking a shaft, I think for ventilation, or for the easy dropping of the ore, or some such purpose as that, from the upper level, I forget just what, and in that way they found this valuable ore. It was that to which I called Mr. Garth's attention. I had also seen an old miner, who was one of the oldest men there, and who said that he had worked in the mine when he was a boy, and always spoke of it as a very rich mine, and I had seen him take a saucer and pan gold with water in this way [illustrating], and the black sediment that remained he said was gold dust.

Mr. LINES. You do not object to this as hearsay, do you?

Mr. WILSON. I am very apt to speak when I make an objection.

The WITNESS. I do not know that that is pertinent.

Mr. FOSTER. It is interesting; I do not think any of them will object.

The WITNESS. I will say for myself that, being inexperienced, I could only be guided by the representations made to me by the American head miner and by those skilled Mexicans who had been working in that business all their lives, and that my instructions were to put that mill up and to get rock in abundance to feed it with. That was the bulk of the instructions given to me, and I strove to carry them out.

Mr. FOSTER. As superintendent, what were your conclusions before you left the hacienda as to the character of the ore which had been mined and was on the patio?

Mr. WILSON. I object.

The CHAIRMAN. What is the ground of the objection?

Mr. WILSON. The ground of the objection is that we do not want the witness's conclusions, his opinion. We want his facts, and the committee itself will draw their own conclusions. It is very apparent now that no conclusion or opinion that this gentleman has reached in regard to this matter could be of much service to this committee or to any court, because all that he knows about it now is what he derived from what somebody else told him, and he draws his inferences and conclusions, not from any facts he had or any knowledge that he had, but from what

was stated to him from the sources which he has given to the committee.

Mr. FOSTER. From experienced miners.

The CHAIRMAN. He was in charge of the operations how long?

Mr. LINES. Just a year.

The CHAIRMAN. During that period of time he was familiar with the mine and the expense of mining, and with all the advantages and all the disadvantages of conducting those mining operations. While he is not an expert otherwise, and could not state perhaps the value of the ore by assay, I suppose that he is competent to state a general view as to whether or not the mine was difficult or easy of working. That is not a question of science; it is a question of the result of his observation, predicated upon a great number of facts that passed through his experience, and perhaps which he would not be able to recall in detail now, but certainly would be to a great extent. It seems to me that it is competent for a gentleman in his situation to say whether or not at the close of a year's experience he regarded this as a mine that was valuable and profitable, or whether it was one that was likely to lose money for its owners, without being competent to determine the analysis of a particular ore or its comparative value as contrasted with other ores.

Mr. WILSON. He is certainly not an expert.

The CHAIRMAN. No, not an expert engineer, nor an expert assayer, nor an expert mill operator; but he was the accredited agent of that company to conduct all of its operations, and he could tell, I suppose, without being expert in any of these particulars, whether it was working well or likely to lose money for its owners.

Mr. FOSTER. I think our friends on the other side will concede that the witness has been very frank in stating what his qualifications were.

Mr. WILSON. Certainly; I concede that.

The CHAIRMAN. There are a great many men conducting large manufacturing establishments in New England who could not weave a yard of cloth or dye it, and in fact could do nothing but market it; and yet they would know, after a year's operations and comparison of financial results of expenditure with income, whether or not it was likely that that was a paying operation, whether it was a good business or a bad business, without being expert in any of the details of the business they were conducting.

Mr. WILSON. I want to suppose this kind of a case: Suppose we are now before a court trying this case, and this witness testifies that he is not an expert; that he did not examine these ores himself; that he was not particularly skilled at that kind of business, and did not know anything about it; now the court would rule that testimony out on the ground, in the first place, that he is not an expert; and, not being an expert, the court would also, after his giving all the facts within his knowledge, draw its own conclusions. Now, suppose we are before a court upon the exact state of facts stated here and this gentleman were asked to give his opinion in regard to this matter—

The CHAIRMAN. Or his impression?

Mr. WILSON. Or his impression about it, or his conclusion.

Mr. FOSTER. "Conclusion" was the word he used.

Mr. WILSON. Conclusion was the word he used. To give his conclusion about it. I venture to say that no court would receive that testimony, and the court would say, "No, we do not want his conclusions; we want his facts as far as he can give them." That is all right. We do not object to that. We do not object to any facts he has in his posses-

sion. But to have this case determined upon the conclusions or opinions of somebody else is a thing that I must protest against.

The CHAIRMAN. On what subject would he have to be an expert in order to give value to his conclusions or opinions as to the general worth or value of mining operations in that particular place?

Mr. LINES. If the chairman and Judge Wilson will permit me—

The CHAIRMAN. I want an answer to that question.

Mr. WILSON. Please repeat the question.

The CHAIRMAN. I say, on what subject would he have to be an expert in order to give any value to his conclusions as to the general value of mining operations in that locality?

Mr. WILSON. His conclusions as to the general worth, etc., is not the question that is involved here. The question that is involved here is as to the value of these ores.

The CHAIRMAN. I beg leave to differ from you on that; that is only a very small branch of the question.

Mr. WILSON. Very well; then it is the general profit that would be made in this business.

The CHAIRMAN. Yes.

Mr. WILSON. And that is what the general outcome of this thing would be, is it not?

The CHAIRMAN. Yes.

Mr. WILSON. Would any court allow him to give his opinion as to what the probable results of this thing would be? And if you were an expert in the manipulation or assaying of ores, would the court allow him—he being an expert in the assaying of ore—to give his general conclusions, or his conclusion as to what the general results of this thing ultimately would be? I say no. I say that is the very question that the court has to decide for itself from such facts as he is able to present to the court.

The CHAIRMAN. Now the question, Judge Wilson, as presented here—one phase of it at least—is whether this company found that it was about to become bankrupt and was spending a great deal of money there, and so abandoned these mines of its own volition because it was a bad investment, or whether they left it because they were driven out by Mexico, and left a very valuable property.

Mr. LINES. Because they thought it was a bad investment, Senator; that is all it is necessary to say.

The CHAIRMAN. That is the general view of this question. They took Mr. de Lagnel and put him in charge there. Mr. de Lagnel very promptly testifies when he comes here that he is not an expert, and that he told them so; that nevertheless they employed him just for conducting that business; that they said to him, "What we want is an honest man, a faithful representative, an intelligent man, who understands business affairs, to conduct the general superintendence of this mine." Of course by that authority they commissioned him to represent that company, and he was just as much the company there upon that ground as if every member of it, the president and board of directors, had been present. He was invested with all the authority that they could give him to conduct and operate these mines. He conducted the affairs there for a year, availing himself of all the facilities that were furnished there in the way of experts, machinists, mechanics, mule drivers, and mule trains, getting his supplies and stores, and paying operators, etc.—the whole outfit of a mining hacienda. After a year's experience there it occurs to me that his opinion, as to the real value of that mining

property, would be just as good as a Kentucky farmer's opinion would be as to the value of a horse.

Mr. WILSON. May I interrupt you right there ?

The CHAIRMAN. Yes.

Mr. WILSON. If he has been an expert miner, and had had such relations to mining operations as would bring him within the category even of an expert in respect to the outlook, so to speak, then that proposition might be, I should think, a sound one ; but even then that would be a doubtful proposition, because it is speculative in its character. But here is a man who says he has not had any experience in those things, and all the experience he had was just simply with reference to that one piece of property.

The CHAIRMAN. You omit to take a very important distinction there. If this gentleman had never been at the mine except as an observer, and he was called upon and should prove that he was an expert miner ; that he understood mining in Mexico ; that he knew the situation and all the surroundings, knew what the average yield of that mine would probably be ; that he had an opinion as an expert upon that subject, and he was called upon to express his opinion after he had qualified as an expert, he would have a right to give an opinion, and we would be compelled to listen to it, upon the ground that he was a qualified expert, authorized to express an opinion upon that general topic.

Now the company took a man who was not such a qualified expert, but they put him in charge, and they come before the Senate making a demand that they shall have the money paid over to them on the ground that this award was a correct one of course, and that they honestly sustained the loss that they allege they sustained there, and their agent comes here as a witness, whom they have accredited by intrusting their business in his hands as a man who is sufficiently qualified to represent them in these very important interests ; and if he is qualified to do that he is certainly qualified to express an opinion as to whether the business was a success or not. He is made an expert or made a qualified witness to that extent by the fact that they intrusted their business in his hands. I grant that if he was called upon as a mere expert outside of his connection with the company to testify in regard to affairs and the probable results of this business he would not be competent to express an opinion. But when the company have put him in charge, and he actually managed the business, I judge his conclusions about whether the business was a paying one or likely to be a paying one would depend, not upon his being a skillful expert outside of that, but it depends simply upon the fact whether they did give him that amount of credit in Mexico ; and the United States Congress have a right to look upon him as a man whom the company accredited when they placed him in charge of their business.

Mr. WILSON. Your proposition is that if a company employs a man to do a particular line of work it thereby authorizes him to express an opinion about everything connected with that enterprise.

The CHAIRMAN. As to all that passed in review before him officially, yes, I should say so.

Mr. WILSON. Then you do not put it upon the ground that he is an expert ?

The CHAIRMAN. Not at all.

Mr. WILSON. On the contrary, it is conceded that he is not.

The CHAIRMAN. He is not.

Mr. WILSON. And that when the company employs a man it gives him all the qualities of an expert simply because he has been employed.

The CHAIRMAN. Gives him that much credit in his dealings with other people because they have put him in charge of the management of the affairs of the company, and he is to that extent the same as if he were an expert.

Mr. SHELLABARGER. I wish the Senator would allow me to make an additional statement, because that is an important point in this case. I think this distinction must be kept in mind between things which are the proper subject-matter or predicate of impressions—to use the word of the witness—touching the future.

Mr. WILSON. "Conclusions" was the word.

Mr. SHELLABARGER. The words are all equivalent. They are opinions touching the future, and that was the point I was aiming at. But what I wish to add to Judge Wilson's suggestion and to the Senator's very clear statement of the position he takes is this: That in no case, no odds how familiar an employé may be with that matter (to wit, the future prospects of business, chances of it turning out well or ill), that is never the predicate of an opinion, as distinguished from facts given from which juries and courts, as Judge Wilson has so well said, draw their own conclusion. Witnesses stop at that line, Senator. They stop at the line of actual facts, when you are dealing with the chances of some future and uncertain thing, and then the court draws the conclusion. But when it comes to matters of expert knowledge, including the sciences, and the arts, and technical learning, then you must have experts. Lawyers, for instance, in certain cases are permitted to give opinions because they are experts; that is a very limited class, however. But now you are dealing with a thing as to which opinions, as distinguished from facts, are never allowed. Neither experts nor anybody else can deliver opinions about them. And I happen to have in my hand what the arbitrator thought about that matter. He took the view that this matter was too remote, and he did not give us a dollar for it. After stating that he was willing to allow for expenditures, he says in his opinion:

He [that means the arbitrator] can not consent to make any award on account of prospective gains nor on account of the so-called value of the mines.

Mr. FOSTER. But he made a large award.

Mr. SHELLABARGER. Now, please wait, Colonel Foster. You have had your say, let me have mine.

Mining is proverbially the most uncertain of undertakings; mines of the very best reputation and character suddenly come to an end, either from the exhaustion of the veins or from flooding, or from some of the innumerable difficulties which cross the miner's path.

Now, that is good sense, and that is first-rate law. He excluded these mines because it was impossible to deliver an opinion as to the value in the future. Now, what Colonel Foster, I have no doubt, was going to say was that he allowed a large award——

Mr. FOSTER. One hundred thousand dollars on the patio, not reduced.

Mr. SHELLABARGER. Exactly. Now keep that in mind. There we are standing on safe ground, because that was visible; that was seen, and felt, and handled, and the witness can testify to facts about that. So that you can tell whether or not the conclusion of the arbitrator upon the facts before him was right in allowing \$100,000 for that. Instead of that the witness now is invited to deliver his impressions.

Mr. FOSTER. I did not intend to say a word upon this subject, but as these gentlemen say that it is of such grave importance, I had better probably add a word, for fear you may think I am convinced by what has been stated.

Mr. SHELLABARGER. It is important, if anything is important in this matter.

Mr. FOSTER. I call the committee's attention simply to this point: The question is not what the ores were actually worth, but what the company thought they were worth. It is not the value of the ores gotten out, but what the company understood as to the condition of the ore, and all the surrounding circumstances, of which this superintendent had obtained knowledge in his one year's residence. The motive the company had for abandoning the mines is the main question for you to determine. If that motive was because they were impressed with the fact that their ores were worthless and that it would be better for them to abandon than to continue it, then you want to know it, and we can gather that information from what the witness may testify, and it is not necessary, as has been so fully and ably explained, that this should be an expert witness as to mining. He was sent out with the full knowledge of the company as to his capacity. He has been very frank in stating to us, as he did to them, that he was not an expert. They clothed him with authority to manage affairs there. Now, at the end of a year's time, we want to know what his conclusions were from his observations. I am surprised that there has been such a serious objection raised on that point.

Senator DOLPH. I agree with the chairman of the subcommittee that the question should be answered, as to the value of the mine. I am not prepared to say that this witness might not express an opinion upon another branch of this inquiry, as I understand it, and that is as to what the company thought the value of the mines was. This witness for the time being at the mines represented the company, was the company. So that what he thought then was what the company thought, and I suppose the officers of the company would be charged with his knowledge. Again, it may be that it is proposed to show that his opinion of the mines was shown to the officers of the company.

Mr. SHELLABARGER. We propose to follow that up.

Senator DOLPH. It may be followed up by further proof.

Mr. WILSON. If it is connected with other evidence, that is another thing.

The CHAIRMAN. Proceed with the examination. Let us try to get along.

Mr. FOSTER (to the witness). Answer the question. What were your conclusions at the close of your superintendency of the mines, as to the character of the ore and the general prospects of the mine, as a paying investment for the company?

Mr. SHELLABARGER. Do not confine that to conclusions for the company.

Mr. FOSTER. Let the question stand as I put it.

Mr. SHELLABARGER. All right.

The WITNESS. My conclusions were, first, that the company had been unfortunate in the selection of myself; that it required a more practical and skilled man to take charge of their mine; next, that the prospects before me when I left were adverse to the interests of the company, from the best light in my possession; that the first need was to send skilled and experienced men, and I had previously asked, I think, in a private letter to Mr. Garth, to come himself or send some one directly interested in the work to look at the condition of affairs in general. That was long anterior.

Q. (By Mr. FOSTER.) Upon what did you base your conclusions?—

A. Upon the information, if I may call it so, that had come to me in

various ways, and the representations made by the miners from time to time, as to the condition of the mines. I also based it upon the assays, limited as they were, that were last made, the first ones having been satisfactory, and from the small yield that we got from the little, comparatively, that I had run through the mill, some 8 or 10 tons.

Mr. FOSTER. Now, I will change the course of examination a little, and then follow it up to the satisfaction of the other side.

Q. I think you said you left the mine in May?—A. I left in April, I think, 1867; yes, April, 1867.

Q. I thought you said May.—A. Stop; let me think now. I do not know that I fixed any definite time. It was in the spring. I think I left in the month of April.

Q. That is not material. In whose charge did you leave the property?—A. I turned over everything directly to Mr. Charles H. Exall.

Q. What was his experience in mining?—A. That I do not know, sir.

Q. Did you learn nothing from him?—A. Nothing whatever. I do not know where he came from except that he was an American.

Q. You had no statement from him as to what his business had been?—A. Not as to his occupation. I believe he had been in business, but I do not know where. Possibly he had been employed in the city of New York; I do not know.

Q. What was the condition of the business when you left? Did you leave any money in his charge?—A. I had a few dollars at the mines which I placed in his hands. We came together to Mazatlan, and there I drew \$5,000 through the bank of California, upon Mr. Garth, as treasurer, and took receipts from Mr. Exall for that amount, together with, I do not know how much more; possibly the total amount receipted for was something near \$7,000.

Q. Then you obtained the cash on that draft?—A. The cash was obtained through the house of Echinque, Pena & Co.; they were our banking house, and they held all the funds. I turned over the balance in their hands and the total amount obtained upon this draft to Mr. Exall, taking just enough to pay my passage.

Q. From Mazatlan where did you go?—A. I went to San Francisco, and from San Francisco direct to New York by way of Nicaragua.

Q. State what report, if any, you gave to Mr. Garth on your arrival in New York as to the prospect of the mine and the quality of the ores.—A. Without recollecting what I said to Mr. Garth, the information I gave to him is what I have said here. Mr. Garth was fully informed as to the condition of the things there.

Q. Just repeat the character of your report to him.—A. I can not say more than in general terms I have said to-day; that I repeated to him. He knew the several causes of delay, for I had informed him from time to time of getting the mill into operation; and of course the various reasons for drawing he knew, because I could draw no money there; I had to get it from the other end of the line; and as to the prospect before him, I told him what was on hand, the condition of the mill, its readiness to go to work, and the necessity for competent men. I believe I told Mr. Collins, to whom he sent me, at the same time, or within a day or so.

By Senator DOLPH:

Q. Who was Mr. Collins?—A. Mr. George Collins was at that time president of the company.

By Mr. FOSTER :

Q. What did you tell Mr. Collins?—A. I told Mr. Collins exactly what I had told Mr. Garth. He questioned me; he wanted to know what was there; about the building; how much there was; how much had been done; its condition; about the mines, etc. I told him everything I knew. He then asked me what I thought. I told him what I thought.

Q. What did you tell him?—A. I told him this: "Mr. Collins, while I have not succeeded, or success has not so far attended us, in developing the mines, in bringing out wealth, and while the appearance of things is disastrous, I do not pretend to tell you, for I have not that knowledge that would justify me in telling you, that these mines are not good." I said, "I can not do that."

Q. What did you say as to the appearances? I understood you to say that the appearances were disastrous. Did you use such a term?

Mr. WILSON. Oh, no.

Mr. FOSTER. I beg pardon. Go on.

By SENATOR DOLPH :

Q. What did you tell him you thought about it; did you give him your individual opinion?—A. No, sir; I didn't, except that he knew exactly the disadvantages I labored under. I told him then that the need was for persons who were thoroughly equipped and scientifically able to manage the business of the mines and scientifically familiar with the ores as they left the mines, to understand their position; that wealth might be in the mines, I believed. I did not attempt to touch that Lu Luz ore, but it was the Cristo ore that I was speaking of, which yielded more readily, and I thought there was more gold and silver in it; the yield, according to the assayer's estimate and the result in bulk, being so inconsiderable, much less than I had hoped, because in that large pile of ore that was thrown out as second grade, the pile that remained after the cleaning being of little value, there were ores that may have contained silver, and I didn't know but they did; I did not trust reports of the last—they were combinations with other ores that required roasting, which required furnace treatment in order to release them. I knew that much, and therefore I knew that when they meddled with those ores and run them through the mill, they would meet with waste probably from quicksilver as well, and that the result would be disastrous to the company. Therefore I told him that he should be on the ground as soon as possible and have a competent man to deal with these things; that the mere running of the mill could be done by any workman who understood the machinery, the belts and pulleys, and the relation of one to the other; but it required altogether a different knowledge to deal with ores in extracting silver. Moreover, I recollect telling Mr. Collins that in the La Abra mine, which had not been worked at all, you may say—

By the CHAIRMAN :

Q. You mean by this company?—A. By this company.

Mr. FOSTER. He is speaking of the whole.

Mr. SHELLABARGER. Yes.

The WITNESS. I am speaking of the La Abra mine as a unit; I am not talking about the other mines now; I am speaking of the old Spanish mine as contradistinguished from the newer mines. I had been constantly spoken to about and knew of the difficulties in the old mine which had been rated so rich, the great depth to which it had been

worked, and the difficulty of bringing out ore several hundred feet on the backs of young boys or men.

By the CHAIRMAN:

Q. While you are on that point I wish to ask a question I omitted to ask you the other day. At the great depth at which you were working did you encounter water?—A. I went to no great depth. There were no good ladders. I dropped stones into it, and could only ascertain that it was of great depth from the stones not giving back the sound for some time.

Q. You do not know whether there was any water at the bottom or not?—A. I never heard that there was water. There was water in the Rosario mine. That was a useless mine that we never got anything out of.

Q. Did anybody under your direction go down to the deposit at the bottom of that La Abra shaft?—A. I never heard of any one going to the bottom; if any one went I do not remember it. I sent different workmen in.

Q. How deep was that shaft?—A. It was not a shaft; it was a great excavation.

Q. It ran down vertically, or nearly so?—A. No, sir; it was a big seam. Senator BROWN. It followed the vein?

The WITNESS. After cutting away, they sunk a round hole and worked on another one probably below; then between those they would take out the ore, leaving pillars at intervals of 10 vars, according to the provisions of the Mexican law; that is, portions of the natural rock, to keep the walls from coming one against the other. These pillars had been taken away.

The CHAIRMAN. I had gained the idea that the lowest level in the mine was about 700 feet.

The WITNESS. I never heard it rated over 400.

The CHAIRMAN. Proceed.

The WITNESS. I was speaking of the La Abra. I said to Mr. Collins, simply in an advisory or suggestive way, knowing of the great wealth of the mine formerly, and being constantly told that it was its great depth that prevented its working, that I had heard it stated that the original mistake was in not having driven a tunnel so as to cut directly at right angles across the veins, and cut all of them—several of them lay almost parallel, and for so doing the estimate was that it would cost about \$14,000, as stated to me by General Bartholow—that I believed that if they would consent to that they would get at the wealth which was believed to exist in the mine. That is what I said.

By Senator BROWN:

Q. If they could cut these veins below, they could work at them and bring out the ore at the tunnel?—A. Yes, entirely below all the workings; you would have to excavate a place or initial point to start your tunnel from on the side of the mountain.

Q. The mountain was high enough so that he could have started high enough for that purpose?—A. Oh, yes. It was a sheer place on one side of the mountain, opposite the openings, and you could see the vein crop out just like that clock. There was a deep ravine there, and facing the side of the mountain you could see the vein running into the ground. I wanted them to cut in on the side of the hill until they touched the first, and then continue. I think the La Abra would have been the last vein to reach.

By Mr. FOSTER:

Q. Was this tunnel finished when you left?—A. It had never been begun.

Q. Did you not state that some money had been spent on it?

Mr. WILSON. No.

Senator DOLPH. He stated the estimate of cost of it, as I understood it.

Mr. FOSTER. If the Senators have no other questions I will proceed.

The WITNESS. There were a number of mines. The La Abra was the prominent old mine, to which all the stories of wealth had attached, I believe. There were numerous other mines that had been worked to a greater or less extent; some of them I never worked. When the La Luz began to give out, or was giving little or no results in return for the money spent upon it, I drew off the force and sought to find something with which to replace the lack of metal coming from the La Luz to keep up the supply for the mill. But there may be large amounts yet under that bed of rock. I do not think the La Abra has ever yet been cleaned. I do not think General Bartholow ever cleaned it, or there would have been ladders in it. When I saw it it was an utter ruin.

By the CHAIRMAN:

Q. In what Mexican State was that mine?—A. I think it is in the State of Durango. It is very close to the line between the States of Durango and Sinaloa.

Q. From which of those States did you derive your privileges?—A. Durango, I understand.

Q. Were there any extensions of your mining privilege obtained from the Mexican civil authorities while you were there?—A. Yes; several times.

Q. What was the occasion of that?—A. Because the terms were running out, and they would have passed out of our control if they had not been renewed.

Q. They would have been subject to denunciation by any other person?—A. The Mexican law requires, I think, that we shall work at least four men in the mine a certain portion of the year. That is a requirement that must be complied with, or you lose your right to work the mine.

Q. In other words, you keep the denunciation alive by repeated applications and by performing a certain amount of work annually?—A. Yes, sir.

Q. Do the Mexican authorities sometimes dispense with the requisition that you are to keep four men at work in the mines; do they not sometimes give you an extension of your privilege of mining without employing the men?—A. I don't recollect. If that has occurred I have forgotten it.

Q. How did you manage to keep your right to mine in these different openings?—A. No.

Q. How did you manage to keep your right to mine in these openings unless you kept the four men at work there?—A. I do not know. I had the workmen there, and they did not interfere with us. There are two terms, *prorogua* and *amparo*; I forget which is the proper term.

Q. What is the *prorogua*?—A. I think the denunciation is the application for an abandoned mine, and I think the *amparo* is the authority coming from the home office to the applicant, giving him the right to work so long as he complies with the Mexican law. I may be wrong, but I am under the impression that the *amparo* is an extension, or there

may be special privileges, but the remembrance of the exact meaning of those words has escaped me.

Q. Does that extension have to be obtained by the payment of a license tax or fee?—A. I do not recollect of ever paying for anything more than simply the cost of the courier, the man I sent with a letter, there being no mail.

Q. When your time was about to expire and your mine was about to become open to denunciation by other parties you would send a courier with an application to have an amparo upon the mine?—A. Yes, sir.

Q. So that that privilege of working it would be extended by the civil authorities of Mexico for a certain other period?—A. Yes, sir.

Q. And this thing occurred, you say, while you were there?—A. Yes, sir, once or twice.

Q. I want to know whether there was at any time a refusal on the part of the Mexican authorities, while you were there or before you went there, if it is within your knowledge, to extend the time of the working of this mine because they were not actually worked by the four men?—A. I do not recollect any occurrence of that sort.

By Mr. FOSTER :

Q. Now, returning to your interviews with Mr. Garth, what effect did your report have upon him?—A. I do not know what effect it had.

Q. How did he receive the report?—A. Mr. Garth appeared to me to be cast down; overwhelmed, I may say; disappointed.

Mr. WILSON. I do not think that is competent.

The CHAIRMAN. That is not competent.

Q. What did Mr. Garth say to you in his reply to you.

The CHAIRMAN. That will do.

A. He expressed the greatest regret and disappointment. He had evidently had the greatest faith in the presence of great wealth in the mines.

By the CHAIRMAN :

Q. You stated the effect in your deposition, I suppose.—A. Yes, sir; whether, taking all the circumstances into consideration, he thought that it was due to the unfortunate combination of circumstances, lack of proper management, or what, I do not know. He did not express himself to me on that point. He was very kind, but he seemed to be staggered and could not understand how it was that everybody could have been wrong after he had been told this and that, and only found it out at the last moment.

By Mr. FOSTER :

Q. What did he say as to the financial condition of the company at that time?—A. He told me that he had made every effort; that his drafts upon him had embarrassed him excessively; that he had told me not to draw except seldom, as I have told you. I told him that when the limit was reached which he had determined not to pass he should caution the Bank of California to not meet the drafts. But he said that believing that the call was honestly made, and that the necessity existed, he had made the effort to meet it, and that he believed that I had only drawn when I honestly believed that it was a question whether the thing should come to a standstill at once and end the affair for the company and break their reputation, or whether it was to be continued, hoping that future management and development might give them the evidence of a better state of things.

Q. Did he state what methods he had resorted to to meet your drafts?

A. He told me he had advanced largely of his own means and called upon friends, as I now understand and recollect; I think that was the way; that he had called upon friends; he did not say to whom or upon whom, and he said that he had advanced money himself.

Q. Did he state anything about what the future course of the company would be?—A. No, sir; he never told me what that would be. He did not settle with me at the time; I did not ask him for the money. There was a balance due me, but I did not allude to that. Possibly it was at the second meeting he told me he could not settle with me until he had seen the directors; that I would have to wait and they would see what could be done. I do not know whether it was one, or two, or three weeks, but some time elapsed, and I may have seen him in the meantime, but when I saw him he paid me in full whatever balance was due me. I never saw Mr. Garth afterwards that I recollect.

Mr. FOSTER. Now I propose to pass from this.

Q. State whether or not any mule-trains belonging to the company were seized by the Mexican authorities or by other persons while you were superintendent?—A. While I was superintendent no trains were seized with the understanding of confiscation; they were seized in the way of detention for duty; that is, detained for a day or so en route.

By Senator DOLPH:

Q. Trains belonging to the company were seized?—A. They were chartered trains; I had no trains except trains of pack-mules; we had all our transportation done by packers on pack-mules; the transportation was one of the heaviest charges we had to meet.

Q. On what terms did you hire them, that is to say, in what manner?—A. I could hire transportation by cargo per mule-head from one point to another.

Q. Did you pay by the pound for the freight, or did you pay so much a day, or so much a trip for the mules and men?—A. I paid so much per cargo per mule. Each mule was supposed to carry 300 pounds.

Q. Who provided for the subsistence of the mules and men?—A. The driver, the owner of the mules; he owned his own mules, and I gave him the compensation for the whole matter.

Q. Did he take pay in a lump sum for the freight, for the merchandise transported, so much a cargo?—A. I do not clearly get your idea.

Senator BROWN. By the hundred pounds or so much a cargo.

The WITNESS. So much per hundred. They knew what the cargo would be, and we paid so much a hundred. We knew how many mules it would take before they started.

Q. (By Senator DOLPH.) You paid so much a hundred for freight to the man you contracted with, and he used as many mules as he chose and took as much time as he chose for his transportation?—A. He might take five days or twenty days, the price was the same. That was the chance he ran, because there were circumstances that might retard him.

The CHAIRMAN. He was a common carrier.

The WITNESS. I paid the driver so much for each mule-load delivered at the hacienda.

By Senator BROWN:

Q. The contract, I suppose, specified some time in which he was to deliver the freight, did it not?—A. It was a verbal contract. I never had a written contract with the packers. They were men of their word, and you could rely upon them. Considering the humble condition in

which they were, they were as trusty a class as could be found in the country.

Q. Was it not important that you should have your freight delivered within a reasonable time?—A. Certainly. We always insisted, and the time would be agreed upon. It was only a matter of ordinary riding of three days and a half, though there might be high water or difficulty of making crossings, which would retard them.

Q. You stated that the trains were detained on certain occasions.—A. I meant to say, detained by authority. For instance, there would be a conflict about duties, and they would detain a train unknown to me, and when I would find it out I would have to send out to meet the engagement.

Q. If you were detained it was for some public service that had to be rendered at the time?—A. They would detain a train temporarily for non-payment of duties on the merchandise, which duties were exacted by the Mexican Government.

By Mr. FOSTER :

Q. Did they ever appropriate the mules for the use of the Government?—A. Not to my knowledge.

Q. State what record, if any, was contained in any of the books of the company in your charge of any loss of mules or supplies by seizure by the Mexican authorities previous to your arrival.

Mr. WILSON. That calls for the contents of books?

Mr. FOSTER. Yes; books which we can not get and do not know anything about.

Mr. WILSON. And have not made any effort to get, so far as you have disclosed here?

The WITNESS. Shall I answer?

Mr. FOSTER. I want an answer.

The CHAIRMAN. Have you any further evidence to offer on the subject of the loss of records?

Mr. FOSTER. I understand there is an affidavit which we are willing to accept as evidence; that affidavit being on file with the committee, as we understand, and we will take cognizance of that.

Mr. SHELLABARGER. Those books alluded to in that affidavit were at the hacienda, but they never got to New York.

Mr. FOSTER. I do not know whether they ever got to New York or not.

Mr. WILSON. We have no knowledge of the books you are talking about.

Mr. FOSTER. This witness has stated that he received the records from his predecessor. He had access to them.

The CHAIRMAN. Does General Bartholow state anything about the loss of these trains?

Mr. FOSTER. General Bartholow makes affidavit to the fact that a number of mule trains was taken while he was superintendent, seized and appropriated by the Mexican Government; not only the mules, but the supplies were taken. That is his evidence. Now I want to know whether he made any such record in the books of the company.

The CHAIRMAN. He can state whether he saw any such record in the books of the company without producing the books.

The WITNESS. I do not recollect any loss on account of the Government. I recollect one loss by robbery of a thousand and odd dollars, or eleven hundred dollars.

By the CHAIRMAN :

Q. Was that before your arrival there ?—A. Yes, sir. I saw that entry, and that is the only entry I saw in regard to any loss.

Q. I believe you have stated there were no losses while you were there ?—A. None that I recollect.

Q. What was the condition of that country in respect of the belligerency of the armies that were contesting at that time for supremacy in Mexico in that particular region of the country, during the time you were there ?—A. I believe the sentiment originally in the vicinity of the mines, Tayoltita, when I arrived, was largely Imperial ; the French, the Imperialists, held the port.

By Mr. FOSTER :

Q. What port ?—A. The port of Mazatlan. Immediately outside the Liberals were in possession, or a very short distance from there, and held the interior. Some time during the fall, I think the French withdrew, and then the control of the port of Mazatlan passed likewise into the control of the Liberals.

By Senator BROWN :

Q. Was that while you were there ?—A. Yes, sir. I saw the evidences of devastation and strife that had occurred anterior to my coming ; but I saw nothing except the presence of troops that was indicative of war. So far as we were concerned, we were undisturbed there.

By the CHAIRMAN :

Q. Is the hacienda on the road from Mazatlan to Durango ?—A. You might go from Mazatlan to Durango in that way, but it would not be on the direct road, unless you had business in one of the little towns intermediate. You would otherwise go by the royal road.

Q. That is an open highway ?—A. Part of it. A portion of it might not be open during the rainy season. Otherwise I think it was an open roadway.

Q. The movements of the armies between Mazatlan and Durango were chiefly upon the royal road ?—A. Yes, sir, unless they had some business at the hacienda, or these little towns.

Q. How far was it from your hacienda to San Dimas ?—A. When you come to ask distances that is a difficult matter to answer.

Q. By the ordinary road ?—A. It can be ridden in two hours.

Q. Was there much internal strife between the belligerents while you were there ?—A. I never saw any except just at the gates of Mazatlan.

Q. None in the vicinity of your hacienda ?—A. No, sir.

Q. Were any persons ever disturbed in their possessions ?—A. I never knew any one to be disturbed. We once had a visitation from a cavalry corps.

Q. From which side ?—A. It belonged to the Liberal government. It came up there in the rainy season. They were in a very destitute condition and required clothing and a remount, and they levied it upon the residents in that region.

Q. Who was in possession of Mazatlan at that time ?—A. I can't tell whether the French were there or not. That was in the rainy season. I think, though, the French were in possession.

Q. Who held San Dimas ?—A. The Liberals. The French were not in that region at all, not within a hundred miles.

Q. They held the mountain region ?—A. Yes, sir.

Q. This levy that was made by the Mexicans was a military assess

ment?—A. It was made on behalf of the Liberal military force present; that is, it was made through the chief civil officer. They both wrote notes. The civil officer wrote one of demand, and the military officer one of more courteous explanation. There was no necessity for his writing to me at all; but he did it, and he told me by this coadjutor who was writing at the same time——

By Mr. FOSTER:

Q. Do you remember the name of that military officer?—A. His surname was Valdespino.

By the CHAIRMAN:

Q. What was the assessment he made on you; what did he demand of you?—A. I can only tell you in general terms that they wanted clothing. This civil officer enumerated what he wanted, so much of one thing and so much of another. I remember that he wanted serapes, and he wanted hats. He enumerated the things that he wanted; so many hats and so many blankets, and also a certain amount of ready money.

Q. What amount was that?—A. Well, sir, if you had asked me before I read this record I don't know that I could have answered, but I have read that book and it refreshes my memory. The amount was about \$300.

Q. Is that your recollection?—A. I think it is. I think the whole thing was about \$1,200, and I know he assessed about half of it upon Mr. Rice and myself, which would make about one-fourth or \$300 for each of us.

Q. Who was Mr. Rice?—A. He was the superintendent at San Dimas, of the Durango Silver Mining Company's works.

Q. So this was a joint demand on the Durango Silver Mining Company and the La Abra Silver Mining Company?—A. Half of the total amount in ready cash was assessed upon the two companies, each to pay one-fourth of the total, which would be \$300; and the other \$600 I presume they got elsewhere, the total being \$1,200 for the assessment for that district.

Q. Then, if I understand, that was a general assessment upon the civil district there?—A. Yes, sir. I was advised to pay the whole of it, being unfamiliar with it and desiring to save interruption. I was advised personally to pay the whole of it, but I could not do so because I did not have but a few hundred dollars on hand at the time; only one or two or three hundred dollars in the box.

Q. About how much did you send him in ready money or goods? What did you send him?—A. I sent him two bundles of strong cotton goods, with which to make overalls for his men. He wanted pantaloons for his men; and I also sent two bolts of unbleached cotton cloth.

Q. How many packages would there be in that bundle?—A. Two bolts; that is what I meant to say.

Q. About 30 or 40 yards each?—A. I could not say how much they contained.

By Mr. FOSTER:

Q. What was the total value of all the goods you sent?—A. I think in the bolts—now I speak after having seen the book; otherwise I would not be able to remember it—and the book says \$65 or \$75, I forget which.

Q. Your letter-book?—A. The printed book, though I presume it was taken from the letter-book.

By the CHAIRMAN:

Q. Was that receipted for?—A. They sent a receipt for it.

Q. Was that satisfactory to them?—A. Perfectly. They acknowledged it, and sent a receipt.

Q. Did they trouble you any further?—A. No; I never saw them again, and they left in a few days.

Q. Was there any violence used or threatened?—A. I heard of none. There was apparently a dispersion of the working people, but that was their own act, caused by fright.

Q. I had reference to violence towards you or your company, or anything of the sort?—A. None.

Q. It was a mere military assessment that was notified to you, and you complied so far as you could, and that ended it?—A. Yes, sir.

The CHAIRMAN. That is what I wanted to get at.

Mr. FOSTER. I want to fix these facts with some precision.

By Mr. FOSTER:

Q. You received a letter, you state, from the commandant, and his name was Valdespino?—A. Yes, sir.

Q. Then you received a letter accompanying that assessment from the civil authority, or officer of that district?—A. Yes, sir.

Q. Did you reply to this letter?—A. Yes, sir.

Q. What was the character of your reply? Did you reply to each one of them?—A. Yes; I must have done so.

Q. Did you accompany those notes with any other communication?—A. I sent a bill to the civil officer, and asked for a receipt. In the other case I think I wrote. I must have done so, because he was courteous in his tone, and I wrote him a letter telling him what I had done.

Q. Did you receive any replies to those?—A. I don't remember.

Q. You asked for a receipt or voucher?—A. I received a receipt. I recollect a receipt coming over that was sent me by a messenger.

Q. Was there any answer from them?—A. Possibly there was an answer, but that I can not say, for I do not recollect. I do not recollect the circumstances except the occurrence.

Q. What did you do with the letters received from them; either the vouchers or the letters you wrote to them?—A. Whatever I wrote must be in the letter-book.

Q. Copied?—A. Copied. Their letters, I presume, were put in the desk with the file of letters.

Q. And the voucher as well?—A. All bills and letters. The bills by themselves and the letters by themselves, according to dates and subjects referred to.

Q. I want to ask you whether any forced loan beyond this stated was ever exacted from you while you were superintendent of the company?—A. I remember none. That is the only case I remember.

Q. Did you see any entry in the books of the company, of prestamos or forced loans paid by the company, previous to your arrival?—A. I do not remember any.

Q. I would like you to state what was the general treatment received by your company while you were superintendent, by the Mexican authorities.—A. So far as the Mexican authorities were concerned, when I came in contact with them they were civil, and I have no reason to recollect anything that was to be found fault with. As to some of the minor authorities, this man Soto, for instance, I must say he was a pernicious man, I thought. But I speak with no personal feeling against him, for I never did anything else but bow to him when I would

meet him. He had the only good house upon the land belonging to the company. I never went into his house, but I understood that he sold mescale and wine to the miners and others. It was in the portico of his house that the balls took place every Saturday night when the miners would come down. They would come down on Saturday night, and Saturday night and Sunday and Sunday night there would be a regular drunken saturnalia. That would begin on Sunday morning, with ball and music, and the miners and women assembled, and then it would degenerate into a saturnalia. The blankets would be spread upon the ground and there would be gambling. The great trouble of the place was the presence of the gamblers who came to fleece these miners every pay-day, and another trouble was the sale of liquor. I stopped the sale of liquor at the hacienda, and turned it over to this man Soto.

By Senator BROWN:

Q. What position did he hold?—A. When I first went there I do not know whether he was in office or not, and I am not certain that he held office during my incumbency. But he was a potent factor there, I think, in the way of constantly urging others and exciting bad feelings. That was evident in the conduct of the workmen from time to time, and it was traced to him. When I say traced, I mean that I depend on what I heard from others who brought me information. I did not go into his house and held no intercourse with him except simply to bow to him and speak to him when I would meet him.

Q. His course seems to have stirred up prejudice against the company?—A. Yes, sir. He was inimical to the company from the first. The miners were subject to his influence, and they were stirred up to a demonstration at one time that I witnessed.

By Mr. FOSTER:

Q. I want to ask you whether the military authorities ever afforded any protection to your trains or employes at the request of the company or its officers?—A. I never had any occasion to make any request. I would hire any packer, and if he was assessed for any duties at the custom-house he would come out with his papers and deposit them at the mine, at the hacienda; then I would pay him the money, either by draft or by ready money—I do not know how I may have done it—and that was the end of it. He was acquit.

By Senator BROWN:

Q. Did he pay the customs and then you pay him?—A. No, sir; the banking-house would settle the customs for me.

By Mr. FOSTER:

Q. I want to make a little more clear the condition of the country when your friends were engaged in packing. When they left Mazatlan did they have to pass through the lines of two opposing forces, or not, to reach the mines?—A. At first they did. In the early part of the journey they had to pass the French forces holding Mazatlan, and then after going an interval they passed into the Liberal line, and after passing them they came on unmolested.

Q. Did the company sustain any loss from that method of transportation, other than by the payment of duties exacted by the contending forces?—A. Not while I was there.

By the CHAIRMAN:

Q. Was that war ended before you left there?—A. Yes, sir; I think

Maximilian was seized and shot just about the time I went away. I do not know whether he had been executed when I came away or not, but his reign terminated about the time I left, or very nearly that time.

By Mr. FOSTER :

Q. During your residence at the mines did you become acquainted with Frederick Sundell? If so, state who he was, what was his capacity as a mining expert, and his reputation in that region?—A. I met Mr. Sundell when I was visiting Mr. Rice, the superintendent of the Durango Silver Mining Company. I was introduced to Mr. Sundell, and learned that he was the assayer attached to the establishment.

By the CHAIRMAN :

Q. How far is that mine from yours?—A. The hacienda of the mine? I do not know whether they were working several mines or not—

Q. The hacienda, I mean?—A. That is about two hours' ride. I could not tell the distance in miles. It is up an immense mountain and down into a long valley, and I could not measure the distance. We always estimate by time. As to his capacity I was not able to judge. He worked with seeming facility. Mr. Rice depended upon him.

By Mr. FOSTER :

Q. And had confidence in him?—A. He seemed to have perfect confidence in him.

Q. What reputation did he sustain?—A. That I can not say. He was a very quiet gentleman in his personal bearing, but further than that I can not say. I never saw him but about some half a dozen times; probably not so many.

Q. I interrupted you a few minutes ago when you were telling about the difficulties with the miners. Did the company have any serious difficulties with the miners during your superintendency? If so, state what they were.—A. The only circumstance at the time that occurs to me now was some time in the fall—very early fall it must have been—when I had an intimation, the night before payment, that there would be trouble the next day when the men assembled. That information was brought to me by Slone, who was then in charge as head miner. The cause of the difficulty was stated to be that they understood I could not pay them off in money or pay them the proportion of money that I had promised them.

By the CHAIRMAN :

Q. Before you proceed, what was your method of paying; what proportion of goods and what of money?—A. I think at that time I was paying them one-third of their weekly earnings in money; we did not pay them entirely in money.

Q. Before that time what was it?—A. It was half and half when I first arrived. But afterwards, on account of the reduction of the amount of ready money on hand, they agreed to take two-thirds of their pay in goods and one-third in money.

By Mr. FOSTER :

Q. And the goods were furnished by the store owned by the company?—A. Yes, sir.

Q. Go on with your narrative.

The WITNESS. Where was I?

The CHAIRMAN. You said Mr. Slone informed you that there was going to be an outbreak, and that the cause of it was the non-payment of money.

THE WITNESS. I did not pay any attention to that that night. It was nearly 9 o'clock in the evening, I suppose, when he came in. The next morning when the men assembled for payment I was in the store. It was a beautiful bright day. Ordinarily they came in dressed in white, but I noticed on this day, although the day was beautiful and bright, they had their native Mexican blankets thrown over their left shoulders. That, however, did not cause any question in my mind. While I was engaged in writing the tickets, giving them their debit and credit account, with the signs that are used to express dollars and cents, and the balance due them written out so that there could be no doubt as to the balance due, the young clerk who was in attendance at the store was standing then in front of them and I was sitting back of him, said to me, "Colonel, if you are going to do anything you had better be quick about it." I asked him what he meant. He said that the fellow who was talking was inciting these men to make an attack upon me, and he told them not to wait. The clerk told me that the man was talking about the Candelaria affair, which had taken place before my time there, I believe. They had risen there and killed some officer and sacked the place.

What he was saying, as told me by this clerk, was, that if they only had a little pluck and unanimity among them, and made the attack at once, they could clean out the whole establishment. There was some \$15,000 or \$16,000 of property lying right around them within reach. I told him to keep quiet, and I kept them in view from the table where I was. I then started up from the seat where I was sitting, and that movement they interpreted, I suppose, as an intention on my part to go for the money, because when I made payments I would go to the room where I had the strong box and get the money. I first dispatched Slone to the superintendent of the company above me and asked him to loan me what ready money he had on hand, so that in case I found I could do it I could make some explanation. He brought \$125 or \$150. I then went to my room and brought down what little money I had; it did not not exceed one hundred and odd dollars, and I also brought down seven six-shooters which I had, with ammunition.

I then called up the workmen and told them to lock up their tools and put them away, and then put on their six-shooters, and come up to the old hacienda. Between that and the store where these miners were assembled was a place about 18 feet long, a court, a closed space between the buildings close by and the stone wall. I told them that I might have trouble; that I hoped not, however, but to see that everything was in order, and if they heard any disturbance, to come in and shoot them down as fast as they could. These men came up, as I directed, and the Mexicans saw them come in. There was no demonstration on their part, nor did they cross the court. They staid in the wine room as much out of sight as possible. I called the head cleaner, Bartolo Rodriguez, who was the only man I had that I could really trust—

Q. Did you find that he justified the confidence that you reposed in him?—**A.** His conduct was unexceptionable as a general thing, but at that time he either lacked knowledge or veracity in what he told me; but that may have been on account of lack of judgment. He failed me at this time in point of courage. That is the only charge I have to make against him. I told him to go out and talk to these men, to tell them the situation; that I had striven to get the money; that their own political difficulties lay in the way. (The French must have been there at that time.) I told him to tell them that I was out of ready money, except a few dollars at the hacienda; that I was willing to pay them

altogether their indebtedness in goods and let them go at once, or to pay them two-thirds in goods and give them a due-bill for the balance, or if they chose to let the whole of it stand I would settle it eventually, if they chose to settle their accounts in that way.

I also told him to tell them that I was perfectly well aware of the influences to which they were subjected; that it was the gamblers who wanted their money, and it was the liquor dealer who wanted to sell his liquors to them; that they were persuaded by evil-disposed persons; and that they might feel assured that I would not put myself in their power at that distance from home without support, if I intended to do anything but the right with them. But he was afraid to go to them, and I do not think he did anything at all. Then one of the men came forward to try and make terms, and endeavored to assure me that these were good people; that they meant no harm; that I must not be frightened, etc. I told him I was not frightened; that my desire was to avoid difficulty; that if we misunderstood each other, I wanted to explain matters; that I would endeavor, as far as possible, to be just and honest with them; that it was my interest to do so; but that if they forced me to extremities, I would deal summarily with them.

He asked me if I had arms and ammunition. I told him I had plenty; that I had plenty of food to stand a siege and plenty of arms to defend myself with. But I said, "I tell you if I commence this work I won't leave one of you alive unless you kill us." I said, "Go back and try to explain to those men what I have told you, and tell them I mean rightly by them." I then sat down and saw what little money I had and made the distribution. It was very small, but I made the distribution to each, anyhow, and I then called the fellow who was the ring-leader. He came up to the counter, when I called his name for payment, in a sort of surly manner, with his hat on his head. Uniformly the custom was for a man when he came for his pay to take off his hat and say Ave Maria. I do not know what they meant by it, except perhaps that it indicated respect and some deference. But this time his manner was surly and defiant. I told him to take off his hat; he removed it. Then I told him that I intended to pay him in full and that he must quit the place at once. I paid him in full and ordered him to cross the stream to the opposite bank, so as to be off the domain where I supposed I had control, and ordered him never to return under pains and penalties.

Q. Did he obey?—A. He went off, and I never saw him again. I then called up the rest of the men in turn and paid them. I told them what I had done; that I desired to do what was right and to fulfill my engagements with them so far as I could. I told them at the same time if they were not satisfied with the condition of things, as it might occur again, I wanted them to quit the place at once. None of them left me. They all stayed. After that I never had any trouble.

By the CHAIRMAN:

Q. Did those Mexicans work faithfully?—A. Always, to my knowledge, so far as I know.

Q. They are a good set of laborers?—A. They were a quiet, good set of men. They are easily influenced, and when animated by evil-disposed persons, or by some supposed grievance, they are very bad fellows to deal with. On the other hand, if treated fairly and rightly, they are amiable.

Mr. FOSTER. I have no further questions to ask the witness.

The CHAIRMAN. As Mr. Dolph has an engagement for the rest of the

afternoon and can not return to-day, I propose, if it suits the gentlemen engaged in the case, to adjourn the hearing until half-past 10 o'clock to-morrow morning.

Mr. WILSON. That is what I was going to ask the committee to do.

Senator BROWN. I have another engagement, but still I am ready to come here to-morrow morning.

The CHAIRMAN. Then, if there be no objection, the committee will rise and stand adjourned until half-past 10 o'clock to-morrow morning.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., September 29, 1888.

The subcommittee met pursuant to adjournment. Present: Senators Morgan (chairman) and Dolph; Messrs. Shellabarger & Wilson, of counsel for the La Abra Silver Mining Company, and Hon. John W. Foster and Mr. Robert P. Lines, representing the Government of Mexico.

TESTIMONY OF JULIUS A. DE LAGNEL—Continued.

JULIUS A. DE LAGNEL, examination resumed.

By Mr. WILSON:

Q. After you ceased to be in the employ of this steam-ship company between San Francisco and China, I understand you returned to New York?—A. I came here, sir.

Q. Came here to Washington?—A. Came to Alexandria.

Q. What year was that?—A. That was 1880, I think, when I came finally from San Francisco to Alexandria.

Q. How long had you been in San Francisco after you left the employment of the steam-ship company?—A. A very little while; I came directly on.

Q. So that from the time that you went into the employment of that steam-ship company until you came to Alexandria in 1880 you had practically been out of the country?—A. I had been, just as I told you, the greater part of the time on the broad water. It took a month to go and a month to come, in round terms, and the delay in Hong-Kong and Yokohama would occupy the balance of the time. In round numbers, we were supposed to make four round voyages to China a year from San Francisco to Hong-Kong via Yokohama and return the same way.

Q. And that was the way that you were employed and where you were during the period the testimony was being taken in this case?—A. I know nothing about that. I do not know anything about the testimony. I never heard of the case until I was called upon in San Francisco by the Mexican consul.

Q. Well, between 1870 and 1875 you were, as you say, on the broad water?—A. Yes, sir; with the exception of these periodical returns to San Francisco, where we remained probably from ten to fourteen days.

Q. Now, I understand you to say that you had had no experience as a miner or any dealing with minerals until you went to Mexico; is that correct?—A. Yes, sir; I never was a miner.

Q. Had you, prior to the time of the interview with Mr. Garth in the city of New York which you have described, had any experience in the

way of testing minerals or examining minerals in any way?—A. No, sir; and I never made any representation of the kind.

Q. You knew nothing about the value of silver or gold ores?—No, sir; I could not have any such knowledge.

Q. And from looking at them or any test that you could make you could not determine their value?—A. Before I left—there was some weeks' lapse between the first interview with Mr. Garth and the time I left, and in that interval, having this place in prospect, I went around to an office in Broadway only a square from Mr. Garth's, and under the instructions of Mr. Cullins, the head of the firm, was taught to make an assay. Mr. Garth knew that was all the experience and knowledge I had. Perhaps I did not understand your question.

Q. What I mean is this: Prior to the time that you made this arrangement with Mr. Garth you had no knowledge whatever of minerals, and could not, from any knowledge that you possessed, determine the value of any kind of ore. Is that correct?—A. Before my interview with Mr. Garth?

Q. Yes, before meeting with Mr. Garth?—A. No, sir.

Q. You could not?—A. No, sir.

Q. Now I want you to tell the committee what it was you did in respect of learning to make an assay and how long you were about it.—A. There was an interval possibly of several weeks—I can not exactly say—it was the 1st of March I left, and I went to him in January, and therefore I presume it was that period; but I can not say exactly what date—I first met him in January. I went to this place, and they taught me to make the assay with the cupel, first weighing and taking a proportionate part, a certain weight of the mineral to be tested, reducing it to powder, and reducing it in a crucible, where the silver and lead might combine and drop in a fluid condition to the bottom. It would form a button of lead and silver.

That was done in little bone cup called a cupel, which was placed in a little arched earthen thing called a muffle. That was placed in a small furnace. You tap it with a hammer and the button came off; the button then was supposed to contain nothing but the lead and silver, and if there was any gold, the gold would be in combination.

The next thing was to get rid of the lead from the mass. This was done by this little bone and furnace in the muffle. That was carefully watched to see when this lead was fully absorbed by the bone or cupel, because as you approach completion if you have too much heat, if I recollect right, or are careless, it spits and you would lose a weight, and although it is very small, still it would be lost in the calculation. The very moment you see a little rainbow appearance over this melted ball in the cupel the time has come. You cool it gradually, remove it and you weigh it, taking fine accurate weights. It being weighed, you then have a ball, a little button or mass having silver and gold in combination, if there be gold in the ore. You take that weight and then to get rid of the silver and leave only the gold trace, you take a little tube, drip this with nitric acid heated over a light, and you see a slight ebullition from the flame.

The silver then is reduced by the acid to chloride of silver, and it leaves a little fragmentary particle, dark, that you would not notice. It looks like a little infinitesimal rag, so small you have to be careful in turning the tube off; and in order to bring that back to the brightness of gold you restore it to the furnace, heat it again, and it restores the brilliant appearance of the gold. You weigh that. Then you have weighed your silver in combination with the gold, and you have obtained

what the weight was of the total mass, and you weigh your gold when it comes out and you see what is the proportion, deducting one from the other. It is a simple calculation of the rule of three; as one is to so and so, so is the result. I have not done it for twenty years.

Q. Now you are not a chemist?—A. No, sir; do not profess to be.

Q. Who was this man who taught you this?—A. Col. William C. Cullens. He was once professor of chemical and natural philosophy in the Military Institute of Virginia, and was at West Point as assistant professor of natural philosophy.

Q. How many times during that six weeks did you visit him for the purpose of taking instructions?—A. I could not say, but I went as frequently as I could.

Q. Tell us whether it was once or twice a week?—A. I won't say whether it was once or twice; frequently.

Q. Half a dozen times during the six weeks?—A. Yes; more than that.

Q. About how many times?—A. You are pressing me for a given number. I won't answer any given number. I went as often as opportunity allowed, for I had every incentive to do so.

Q. All the instructions you had on that subject you got in that period of six weeks?—A. The whole of it.

Q. Now tell the committee how many different specimens of metal you assayed while you were thus taking instructions?—A. I had no other but the one specimen submitted—this piece Mr. Garth gave me—that I recollect of his ore.

Q. Now, in all the experiments that you made there, or all that you did in the way of acquiring information, that was all confined to one single piece of metal?—A. No; I do not say that. I had but one specimen from Mr. Garth. He broke a piece off a piece he had on his mantlepiece and gave me.

Q. Did that show a large yield of silver?—A. It did.

Q. Now, did you make any tests on any other metals than that piece of ore you got from Mr. Garth?—A. The question never occurred to me until you put it. I do not know what metals they were Colonel Cullens had. He gave them to me simply to manipulate the ore whilst he stood by, watching.

Q. Did he ever teach you any other processes than the one you just described?—A. No, sir.

Q. And if there was any other process that was necessary to be used in respect of ores other than that specimen of Mr. Garth's you do not know it?—A. I know there are other methods. One is the analytical method, that I never could learn because I had not the physical power. I tried in San Dimas to learn to use a blow-pipe, but I could not do it because I could not keep up a continuous expiration. It is necessary, or at least desirable, to have that in order to ascertain what components there are in a little lump of metal presented to you.

Q. And if there are any other methods required in order to test other characters of ores you do not know anything about them?—A. I do not pretend to know.

Q. And if you came across a piece of ore that required a different treatment than the one you described, you would not know how to go about treating it?—A. I do not pretend to. I do not know what you are arriving at, but, if you will permit me to state, I think I can simplify what you are getting at.

Q. Well, you had better answer my question and not assume what I am trying to get at. Now you went to Mexico. What did you find

there in the way of ores on the patio?—A. I found an ore coming from the La Luz; that was divided, a large and smaller pile, and away over there again was a deposit of ore from another mine, El Cristo.

Q. From what mine did this specimen come that you saw in New York, and, as you say, you made your test of?—A. If I recollect aright—I am not positive—my recollection is that it was from La Luz.

By Mr. LINES:

Q. That is, you were told so?—A. That is the impression I have always had in my mind, and have now, that it was from the La Luz mine.

By Mr. WILSON:

Q. You had no specimen from any of the other mines?—A. No, sir; I never saw any other specimen from Mexico until I went there.

Q. Are you able to state to this committee that the minerals that came from the La Luz and from these other mines are precisely the same in their chemical combinations?—A. I am not. I do not think they were, because the appearance of the ores is different; they look different.

Q. So that your test of this specimen from the La Luz might not apply to the other ores that came from the other mines?—A. I do not know anything about it.

Q. You say that the ores appeared to be different in their chemical constituents?—A. The appearance, I say. I merely speak of the appearance to an untutored mind as mine was at the time. The ore that came from El Cristo had a reddish appearance and free gold oftentimes. The ore from La Luz was a gray one. This specimen that Mr. Garth had showed brilliantly what might be called silver glints; I am not sure.

Q. Are you prepared to state to the committee that the instructions that you had on the specimen of ore you had in New York would enable you to actually assay and determine the quality and value of the other ores?—A. I have never pretended it.

Q. And you do not pretend it now?—A. I do not; never did.

Q. Now, when you got down there, you found ores from the La Luz on the patio and some from other mines, from the Cristo?—A. From the Cristo.

Q. And you found them in two piles?—A. Yes, sir.

Q. One described as first class and the other described as second class?—A. Yes, sir; that gradation related only to the La Luz—a comparatively small part as compared to the whole there—the one called first-class ore, which in general terms was supposed to run up very high.

Q. How many tons were out?—A. I could not pretend to tell you how many tons.

Q. You will have to give us your best estimates?—A. You have official statements, I believe. I could not do it.

Q. You were there on the ground and saw it, and you are here giving your information to the committee, and we want your best estimates now as to how much of this first-class La Luz ore there was on the patio when you went there?—A. It was comparatively small as compared with the whole.

Q. You say comparatively small. Was there one hundred tons, or four hundred, or five hundred?—A. No, sir.

Q. How much?—A. You are asking me for a positive statement. I tell you it is an impossibility. I do not propose to do it.

Q. Mr. Bartholow preceded you there?—A. Yes, sir.

Q. He writes about it—

From La Luz we have taken out 400 tons, and the quantity mined weekly has been increased to an average of 30 tons.

Does that refresh your recollection as to the condition of things there?—A. No, sir; I know he had large trains running when I arrived.

Q. And they had not crushed any ore out, had they?—A. No, sir.

Q. And it was put up on the pile?—A. Yes, sir.

Q. And you have no reason to believe, from what you saw there, that his statement is not a correct statement as to the quantity?—A. I do have reason to think, but I can not be positive; but I know I thought the amount overestimated.

Q. Do you mean the quantity overestimated?—A. The quantity on hand.

Q. Are you prepared to say now there was not 400 tons from the La Luz there lying on the patio when you went there?—A. No, sir, I will not guess. I cannot estimate tons by sight.

Q. You will not state that there was any less than 400 tons?—A. I do not mean to make any positive statement on the subject.

Q. Well, you saw it there continually did you not?—A. Every day.

Q. Every day.—A. Yes.

Q. And having thus seen it day by day, can you give the committee no estimate of the amount of that La Luz ore that was on that patio?—A. No, sir; I cannot. If I did it would be simply guess-work, and there is no use indulging in anything of the kind. I will not do it; I have answered you honestly. If I had any intelligent idea I would give it to you without any hesitation.

Q. Well, now give us some idea of this second-class ore; the quantity of it that was there.—A. That was the large pile. The first-class ore laid in a little pile in the corner.

Q. You say it was a little pile; say how big it was.—A. A little pile as compared with the other.

Q. Now you are very free to use the word little pile. I want you to tell us what the dimensions of that pile were.—A. The smaller pile, then, of the two.

Q. I know; but this is going in the record. I want to know the size of both.—A. I can not give you feet and inches.

Q. Was it 20 feet?—A. No; I can get it better this way. It laid against the back of the wall that surrounded the patio, so that you could stand and look over. It was a wall like that, for instance [indicating]. I could stand and look over it. It laid against that; it rose as it came away from the wall and fell off slanting in every direction with an irregular base line.

Q. Can you give us an idea of the size of that base line?—A. No; I could not tell you how long that patio was to save my life, although I saw it. If asked to-day whether it was 200 or 300 feet on the side, I could not tell you. I have a picture of it in my mind, but it would be only guess-work.

Q. I am only particular because you say it was a little pile.—A. I simply mean to say that it was small as compared with the larger pile; that was a very large pile.

Q. Now give us the size of the big pile. How many tons in that?—A. I don't know. The only information I had up to the time I went there is what General Bartholow states.

Q. Was there 1,000 tons in it?—A. I do not suppose there was, because it was not represented anything like it.

Q. How was it represented ?—A. I have seen two statements. I have seen 400, and 200 also, stated by General Bartholow as the amount being there.

Q. As the amount being in the large pile ?—A. No; that amount of ore.

Q. In the large pile or the small one ?—A. The two, I presume.

Q. Don't you know he stated, as I have just read to you, there were 400 tons of the La Luz ore ?

By Mr. DOLPH :

Q. I understand both these piles were La Luz ore ?—A. Certainly. I did not want to say it, but you drive me to the point. I saw two statements about ores, because he contradicted what he said. I do not want to be put in any position of contradicting myself by making a statement, and then afterwards when I am making another, I don't know.

By Mr. WILSON :

Q. But I am not putting you under any duress at all. I simply want the committee to know the facts.

By Mr. DOLPH :

Q. I want to ask the witness a question. Have you stated in your testimony so far that the La Luz ore which was on the patio was in two piles ?—A. Yes, sir; there was no ore on the patio save the La Luz so far as I remember; certainly not when I went there. The Cristo was beyond the mill, piled up by itself many feet away.

By the CHAIRMAN :

Q. An entirely different locality ?—A. Entirely different locality. The La Luz was near the house in the square, right back of the building, and the other was beyond, the interval being occupied by the mill.

By Mr. WILSON :

I find in one of Bartholow's letters this :

Our ore pile is regularly and steadily increasing; the stock on hand is between 550 and 575 tons.

Mr. LINES. Let me ask you if you accept that letter in preference to the affidavit of General Bartholow made before the committee.

Mr. WILSON. Oh, I am not accepting anything.

Mr. LINES. Where he said he mined about 200 tons of ore which were carefully assorted for beneficiation, "and their value in pure silver was from 3 to 15 marks per carga, or an average of 8 or 9 marks per carga. This I know to be true from experimental assays of average lots as assorted and tested by me."

Mr. DOLPH. Permit me to make a suggestion. If these two books the counsel read from are before the committee I suppose they are sufficiently official to be before the committee for some purpose. Of course the question as to the fact can be obtained by reference to the testimony in the case if it becomes material. If this witness has made any statement in his present examination or any other examination, or not under oath, that would be a proper subject to call his attention to; but is it a legitimate examination to say that when some other person has stated in his testimony or under oath, or in some connection, that such and such was the fact, to follow that up to ascertain his recollection as to the amount of ore ?

Mr. WILSON. He is under cross-examination and I have asked him about a fact which was right there before him for a year and more, and he says, "I can not tell," etc., and I want to refresh his recollection.

Senator DOLPH. I am not criticising the extent to which that question is pressed or as to whether the witness is supposed now to remember and to be able to give an estimate of the number of tons in an irregular pile of rock. I was only suggesting as to whether that was really the proper method of examination and so on, that Mr. Bartholow in some letter, which I do not know whether it is before the committee or not, has said it was so many tons, whether anything is gained by expressing it in that shape.

The CHAIRMAN. It occurs to me that General Bartholow's statement there about 500 tons of ore in stock would relate to the La Luz ores and also to the El Cristo pile. This witness is speaking now, as I understand it, of the ores upon the patio as they came from the La Luz mines, the Cristo being some feet away and at a different locality. It is probable that there were 500 tons of ore.

Mr. LINES. Bartholow says, on page 26—

Up to April 1 our ore from the La Luz 7 El Cristo mines, say at that time 500 tons, 400 of which was on the patio, had cost \$9,000.

The CHAIRMAN. We can not possibly stop to hear this argued piecemeal as we go along. What we want is to get the facts this witness knows, and whatever General Bartholow stated of course the attention of the committee can be drawn to in due season. I suppose the purpose is to get at what he estimated the weight of these ores, the size of the pile from the best means of information he had at the time.

Mr. WILSON. That is all.

Mr. DOLPH. The counsel will see the drift of my objection. As soon as you read from one letter of General Bartholow the counsel on the other side read another letter from Bartholow, and we get nothing but controversy on what Bartholow said.

Mr. WILSON. I was going to ask him in one moment, and I will do so now, if General Bartholow did not at some time tell you about how much ore was there on the patio in these different piles?—A. If he did, I do not remember it; he may have said so; I do not pretend to say he did not tell me so. I make no such denial, but I do not recollect it.

Q. Have you an impression he did tell you about how much was there?—A. I have no impression about it at all. My mind has not reverted to these things for years. There were at the hacienda books that showed day by day the delivery. Whenever a train came down the sacks were thrown out, weighed, entered on the book, and the clerk brought the book back and hung it up.

Q. And you had access to the book?—A. I had, and I think it was that book my attention was called to by some one who questioned the quantity. I think I must have gone to that book to get the basis of my belief that there was an overestimate of what was there.

Q. Now, your attention, therefore, was particularly called to the quantity there?—A. Yes, sir.

Q. Called to it by the book?—A. Yes, sir.

Q. Called to it by your seeing it?—A. Yes, sir.

Q. But you can not give the committee any definite idea as to the quantity there?—A. No, sir; I can not answer; one or two hundred tons.

Q. And if anybody has stated the amount there you are not prepared to deny it?—A. I do not pretend to say that. I make no assertion on that.

Q. Now, when you got down there did you assay any of this ore yourself?—A. Which?

Q. This La Luz.—A. Soon after getting there—I could not say whether I took specimens from both, but I know I did from that, because that was right in sight—I asked, I think, Mr. Hardy, who was the book-keeper and store-keeper—in fact he was the only one I could appeal to after the others went away—and he had some ores reduced, which I took down on mule-back, forded the stream—

Q. I will come to that after awhile. I want to know whether you yourself, having had the La Luz specimen in New York—

Mr. FOSTER. No; he has not said so.

By Mr. WILSON:

Q. Well, what was reported to be the La Luz specimen in New York, and having taken your lessons in assaying in New York on that specimen, after you got down there I want to know whether you made any assay of any of that La Luz there at the patio or hacienda?—A. No, sir; there were no means of assaying at the hacienda.

Q. You say that at the hacienda you, having no facilities, made no assay yourself?—A. I could not do it.

Q. But what you did do was to have Mr. Hardy or somebody else to reduce— A. Bruise down into powder.

Q. Exactly; I do not know what the technical term is, but then you pulverized it?—A. That is it exactly.

Q. About how much did he pulverize?—A. Well, the pulverization was done in a stone mortar about that high and about that size [indicating].

Q. I do not care how it was—how much did he pulverize?—A. I simply saw the instrument in which it was done, and scarcely remember that. It was handed to me. I took an irregular mass of it; you do not want a great mass. He took a much larger quantity to be pulverized in order to get the general truth of what was in it, and he gave me a portion which I took in a package down with me on the saddle-mule to this place, La Puerta.

Q. Very well, I don't care about the method, but you got some pulverized and carried it to this other place?—A. In that condition.

Q. What did you do with it when you got it down there?—A. I had it assayed.

Q. Did you assay it?—A. I think he first and then I. I think we both assayed.

Q. Well, did you make an assay yourself?—A. Whether I did it wholly myself or not I could not tell. We were working in combination there and the results were satisfactory.

By Mr. DOLPH:

Q. Were you working together when the assay was made?—A. Yes, sir; right at the scales and the furnace together. I may have weighed and he may have weighed, and I would go to the furnace and he would go to the furnace.

By Mr. WILSON:

Q. Did you do it according to the process you learned in New York?—A. Exactly.

Q. You say the results were satisfactory?—A. I can not even recollect now the men that examined it; but I recollect the result was satisfactory. I do not mean to say it gave \$1,300 or any thing like that, but it was satisfactory in a general sense. I was not led myself to regard it as unsatisfactory—as showing danger ahead. I do not mean to say

I ever saw any \$1,300 ore, because that would arrest attention. Whatever the facts were, Mr. Garth had them.

Q. The results were encouraging?—A. Perfectly satisfactory.

Q. Now, you went down there for the purpose of making that test by an assay, and you had had Mr. Hardy to take out ore that would show fair results. Is that what you asked for?—A. I asked him to have some of that ore bruised for me. I do not know that I gave him any specific instructions. He was the only one I could turn to to have these things done. I asked him, as he had the whole knowledge, to get a proper man and have that ore prepared for me (bruised); that I wanted to go down to the only place I knew easily accessible—La Puerta—and make the assay and see what it was worth.

Q. Now, if that was a fair average of that pile of ore, that was satisfactory to you?—A. Yes, sir.

Q. And gave good promise for the future?—A. Yes, sir.

Q. Which pile did that come out of?—A. That I can not tell you, for I did not see it taken.

Q. You do not know whether it came out of the first class or second class?—A. I was told by some one, I don't know where I got the information, that it was not taken out of the second class. I wanted the second class because the first was reputed so rich that it seemed to be indubitable. I did not have any thought of it at all.

By Mr. DOLPH :

Q. Do you know yourself where it did come from?—A. No, sir; I did not see it selected or bruised.

By Mr. WILSON :

Q. If it did come from the second class, then that second class was satisfactory and gave promise of good results?—A. Yes, sir.

Q. Now, did you make any other assay?—A. No, sir; there were no means of assaying. I did not go there again. I recollect going over to San Dimas to learn to assay. Whether I had a piece of the ore I can not say; but it was a mere fire assay we were trying then, and I do not believe I made another one until just before I left; that was another ore—the El Cristo.

Q. Well, I do not want to get that yet.—A. Well, the La Luz I never tried again.

Q. Now, can you tell the committee what that assay that you did make yielded, or would make that ore yield, to the ton, approximately?—A. I can not; but that information Mr. Garth can give you, I think.

By the CHAIRMAN :

Q. Did you communicate that to Mr. Garth?—A. I think I must undoubtedly have done it.

By Mr. WILSON :

Q. Well, you can not now—although you made it yourself or helped to make it, and were particular to have it made in order that you might understand what that ore was worth, and what the prospects in the future were—you can not now tell what that showed in the way of yield of metal to the ton?—A. No, sir; I would not pretend to give you the figures. I can not do it.

Q. You can not do it approximately?—A. I can not; because when you attempt to approximate, it is mere guess-work and worth nothing.

Q. And so you would have to testify before any court that might summon you.—A. Wherever I was asked, I would say the same thing.

Q. Now, how long after you got there did you make this assay?—A. It must have been within a month or six weeks, for the rainy season came on, which raised the stream and impeded travel so much that I would scarcely have attempted it in the wet season.

Q. You went on, during the time you were there, taking out ore from this mine, did you?—A. Yes, sir.

Q. And did you see any difference in the ore from that which was there at the time you went there; I mean did that which you took out have any different appearance from that which you found on the patio when you went there?—A. The same general character, looking at it. The difference was the diminution in quantity.

Q. The difference was the diminution in quantity, but so far as the yield of metal from the ore was concerned you saw no difference in the appearance of the ore that was there when you went and that which you took out after you got there?—A. Now, since you call attention, let me tell you this—I just say it for what it is worth—but there was a portion of that ore that was being mined, there was a difference in this respect, that much of that ore that lay on the patio, and the greater part of it—I say the greater part, so much as to strike you—you could see shining yellow pyrites, it was covered with it; and then the ore which was taken out from time to time, which I conceived to be better, was simply of a grayish look in the white quartz. I do not know the relative value of the two now.

Q. So that what you took out had a better appearance, so far as metal was concerned, than that which you found when you went there?—A. I do not say the whole that came out under my management; much of it came down by pack trains, weighed by the clerk, the book brought in, and I might be away from the place, but the same characteristic oftentimes occurred. I suppose occurred with me as it did before, only I tell you that that was characteristic of the ore; that there was a great deal of that shining, yellow, glistening metal, pyrites.

Q. Well, if you will pardon me, my question is whether or not the ore that you took out did not give evidence, so far as the eye was concerned, of being better than that ore on the patio when you went there?—A. I do not question that, because I had made this assay—

Q. Well, how is the fact?—A. I never was drawn to compare one piece with another. I do not suppose I did.

Q. Are you prepared to say that the ore you took out was less valuable than that you found when you went there?—A. Only less valuable so far as the amount of the silver ore as compared with the total bulk taken out of the mine—

Q. I am talking as to the quality of the ore.—A. No, sir; I do not pretend to say that.

By the CHAIRMAN:

Q. I understand your answer to be, then, that there was more refuse matter taken out of the mine in the mining that you did than had been done before?—A. I presume so.

Q. But as to the ore itself you can not tell whether it was any better or worse than that taken out before?—A. No, sir.

By Mr. WILSON:

Q. You are not prepared to say it was any worse?—A. I would not say so.

Q. The refuse matter did not go into the pile of ore, did it?—A. It was cleaned at the mouth of the mine, and all that was supposed to con-

tain anything worth transportation and working was brought down and deposited at the hacienda.

Q. So that the refuse matter did not go into the pile of ore?—A. No, sir; only much of this rock was not well cleaned; that I know lay on the patio. You could pick up big pieces of it and break off big pieces that did not contain any ore. It was dead ore.

Q. Why did you do that?—A. I did not do it. When I found it out it laid there.

Q. So that, as soon as you could control it, none of this dead rock went into the pile?—A. So far as I could control it, no.

Q. You looked after that, did you not?—A. From time to time, yes; I did not give it early attention.

By the CHAIRMAN:

Q. How was that pile of ore when you first got there in respect to dead rock?—A. At first my attention was not called to it at all.

Q. How did you find it on examination?—A. When my attention was called to it, as I tell you, I picked up this rock. I made them burrow into the pile and they would bring out a piece that had nothing but white quartz on it, matter that should have been stricken off at the mouth of the mine.

Q. What proportion did that have to the pile?—A. I can not tell that. No living man could tell you.

Q. Were the ores you mined better assorted and cleaned than the ores you found on the patio when you went there?—A. It was more clean, of course.

Q. Than that you found on the patio?—A. Yes, sir; that was the point. They said there was a great deal of waste matter on the pile, and it was what was called dead rock.

By Mr. WILSON:

Q. How much ore did you mine while you were there and carry down to the patio?—A. I can not tell you that.

Q. Can not you approximate it?—A. No; because I have tried to do it. I have tried to calculate by the number of mules working and the number of trips a day, but they varied from time to time, and there was no regular constant number; sometimes more, sometimes less. The rainy season interfered, and we had to reduce the number of trips.

Q. Now, then, can you give the committee no idea how much that pile increased after you went there and before you left?—A. The Cristo increased very largely.

Q. Well, the La Luz?—A. The La Luz increased, but not, I think, proportionately with the other.

Q. Well, did you get out 100 tons, do you think?—A. For the whole year?

Q. Yes.—A. I think we did.

Q. More than that?—A. I don't know; I could not tell you.

Q. Would it be 500?—A. No, sir; I do not suppose anything of the kind.

Q. Would it be 250?—A. No, sir; I do not think so.

Q. Do the best you can.—A. You asked something I can not give you.

By the CHAIRMAN:

Q. Did you make a record of the amount of ores taken out?—A. All the ore. Every train of mules that came down notice was given at the store; the clerk took his little book that hung on the wall, and weighed

it on a pair of old-fashioned Spanish steelyards, took the total weight and noted it in the book, each train as it came each day. It was a long, blurred account, of course.

By Mr. WILSON:

Q. What book was that in?—A. It was in a book kept specially for the purpose.

Q. Did you find that book when you went there?—A. Yes, sir.

Q. Did you make notes of the results of your mining in the same book?—A. In the same book, right along.

Q. Where did you leave it when you left there?—A. I left it at the hacienda with everything else. I took nothing from the hacienda.

Q. Now, after you got there did you continue to separate the ore into first and second class as had been done by Bartholow when he was superintendent?

Mr. FOSTER. Is that shown, that Mr. Bartholow did that?

The WITNESS. He had a first and second class.

By Mr. WILSON:

Q. Did you continue to separate it?—A. I do not think I did; I think I put it all in one pile.

Q. Did you put it in the pile of first or second class?—A. It all went, I think, to the pile of the second class.

Q. All that you took?—A. I think so; I think it all went into one general pile.

Q. Now, when you went there, in what condition did you find this mining property, as to machinery for crushing ores, if I use the proper word?—A. You mean for bruising.

Q. What machinery did they have when you got there that was in condition to be operated?—A. None. It was partly in place, but there was no motive power; you could not move it without water.

Q. The machinery had been taken in there, had it, before you got there, but not yet put in place?—A. The new machinery was all on the ground, the whole mill, all its parts, and it was lying spread around on this square place called the patio.

Q. Was there any machinery there with which you could crush ore?—A. None; the old battery had entirely disappeared and a new battery partly built was in its place, but no motive power.

Q. Had that machinery been gotten in place at the time you left and in a condition, including the power necessary to run it, so that it could be operated for crushing purposes?—A. The wheel was there, the ditch was there, the water running it, and the machinery was all in place, the shafting was up, the belts or pulleys, the concentrators, the battery complete.

Q. Was the necessary power there in the way of water to run that machine?—A. It was there at first, but that power was susceptible of interruption.

Q. Was it available for running the machinery at the time you left there?—A. It worked the mill beautifully for that little amount I had crushed. I never saw it afterwards.

Q. How much did you crush with it?—A. A small amount; 8 or 10 tons. I don't know.

By Senator DOLPH:

Q. I have been wanting to ask a question in that connection. Do you know from which pile that 8 or 10 tons was taken?—A. It was taken from the Cristo ore; different from this the gentleman is speaking of.

By Mr. WILSON :

Q. Well, the machinery and power up to very shortly before you left was not in a condition where you could do any crushing at all?—A. No, sir; and so far as any crushing was done with that machinery, there never was any done to my knowledge.

Q. I mean while you was there?—A. Yes.

Q. Well, would they have run that machinery without you knowing something about it?—A. No, sir.

Q. Then, as I understand you, and if I do not understand you correctly I want you to correct me, the company when you went there had this machinery delivered but not yet put in place so that it could be operated?—A. Yes, sir.

Q. And it had been, before you went there, taking out this ore in anticipation of getting the machinery ready to go work, and during the time you were there you were continuing to take out ore in anticipation of getting the machinery at work?—A. Yes, sir.

Q. But up to the time or about the time you left the machinery had not been in a condition so that any of this ore could be worked and crushed?—A. That is substantially so.

Q. So that so far as any knowledge you could have as to the actual value of this ore you can give the committee no further information than you have already given?—A. May I just speak to you without its being put on record?

Q. I have not the slightest objection, so far as I am concerned.—A. I think undoubtedly, because of that very ignorance on my part, I have no doubt I told Mr. Garth and Mr. Collins I was ignorant as to what lay in that pile. I could not tell; I could only speak of the facts as to prospects of yield. I did not pretend to tell them the value of that, because there may have been untold wealth that I would be ignorant of.

By the CHAIRMAN :

Q. What was the cause of the delay in the completion of the mill, if there was any?—A. The desertion of the workmen, lack of ready money at the mines to pay them; and then again the weather broke in, in the rainy season, and destroyed a part of the masonry that had been done.

Q. Masonry for the ditch?—A. Yes, sir.

Q. About how long was that ditch?—A. Well, it was very long; it may have been half a mile long.

Q. Built up with masonry all the way?—A. Stone-work; yes, sir.

Q. Stone-work all the way?—A. Yes, sir; and part of it was tunneled right through the projecting spur; that was old but broken and repaired. The mountain came down and abutted in the stream. The water washed around and you had to run the ditch through. That had been done, but the wall had been giving way.

Q. In order to get to the proper place you had to tunnel?—A. The tunneling had been done.

Q. And you think the water was half a mile away before it was turned on the wheel?—A. You see, there was a break in this ditch. There was what was called an arroyo in the rainy season; a torrent would come bringing great bowlders which cut away the arch entirely and filled up the place with rubbish.

Q. That was one of the causes of delay?—A. That was one of the causes of delay, and the fact that the workmen left.

By Mr. WILSON:

Q. You have spoken of this El Cristo mine; you took ore out of that, did you?—A. Yes, sir.

Q. Had any been taken out of that before you went there?—A. Both of those mines, I think, in fact I am certain, were being worked when I went there.

Q. Do you know how the El Cristo ore compared in value with the La Luz?—A. No, sir; because it was not assayed until that primary trial that gave that small result in silver. The assays were made by Mr. Elder in my presence and gave small results, but I thought better results than I see stated by me. I do not recollect even that. I could not have told if I had been asked whether it was \$5, \$10, \$15, or \$20 to the ton, but I see in print it is put down at \$9.

Q. Can you give the committee any idea whether it was richer or poorer ore than the La Luz?—A. The estimate that I placed upon it was that it was freer; one that contained more free silver, and gold that you would get more readily. I believed that the ore from the La Luz required treatment in a reverberatory furnace different from that on the patio, that it had to be treated by fire. Without any positive knowledge that was the impression I got and they told me it was very rebellious, as they termed it, very rebellious ore.

Q. Which was a rebellious ore?—A. Much of this that was mixed through the La Luz; the other was not.

Q. And the Cristo was a freer ore?—A. Yes, sir; and it was represented as containing—and I saw with my own eyes, as I tell you, the gold showing free, in lumps, little balls, like fine shot.

Q. What I want to get at is which was the most valuable ore in your estimation?—A. In my estimation the El Cristo.

Q. How much of the Cristo ore was there; was there as much of it as there was of the other?—A. No, sir; there was not.

Q. You are sure of that?—A. The Cristo?

Q. Yes.—A. I am sure the La Luz was the greater pile.

Q. Was the Cristo put in a pile by itself?—A. Yes, sir; as far as I recollect.

Q. Well, your recollection about the 1st of August, 1866, would be better than your recollection now?—A. Yes, sir.

Q. Very well; you wrote to Mr. Garth on the 16th of August, 1866, this:

I have had the large pile of second-class ore, about which much doubt had arisen, cleaned, and the amount of clean from the rock, as declared to be the expert Limpador, is very small.

The ore cleaned from it, however, is very good, that is the second-class, and the other pile of first-class metal is not only better in quality, but in as far as has yet been made manifest but little waste metal.

That was accurate, was it?—A. That was looking at the outside without going to the bottom. I took that for granted.

Q. Well, that was true when you wrote it?—A. I believed it.

Question:

Besides these there is a third pile of almost equal amount to either of the others from the El Cristo.

So that this third pile was almost equal in bulk with the other two; and you now say that you think the El Cristo was better than the other?—A. I say at that time. I do not know what the true value of either is to-day. I could not tell you; but when it left there my idea was, in the face of that assay that Mr. Elder had made—

Q. Oh, I am not talking about when you left there at all. I am talking about the 16th day of August, 1866.—A. Well, whatever I wrote on the 16th day of August to Mr. Garth I meant and believed, and stand by it now. That I may have been mistaken is indubitable. Any man may be. But what I wrote was written according to the best lights in my possession.

Q. Now, if you know or have had any thing come to your knowledge that makes you think you were mistaken at that time, I want you to tell it to the committee.—A. The result of the crushing of that 10 tons from the El Cristo disappointed me horribly.

Q. Well, you have given that result?—A. Yes, sir.

Q. And that is all you know about it?—A. Yes, sir; all I know. That came out in the form of a piece of silver which Mr. Garth had in New York.

Q. You never had an assay made of the Cristo?—A. No, sir; I never did. I tell you that was the very ore that the last assay was made at the time of the running when the battery was bruising this very Cristo. We took, in order to get an average, a little piece of rock. You may pick a specimen that will give you a proportion of \$1,000 a ton.

Q. I understand that.—A. Now, what I want to say is, the only ore I could have had reduced there or had reduced was taken from the El Cristo pile—a limited quantity, as a test, and at the same time as it was being crushed to pulp in the battery with water it was taken there. Their supposition was we would get a better general result from it. The assay was made by Mr. Elder in my presence.

Q. I am talking about El Cristo.—A. That is what I am talking about.

Q. Did you have that assayed?—A. That is just what I am telling you. When this first 10 tons were crushed I did not accept the assay, I took it for what it was worth, but I am not positive of anything about it. I believed there was a large amount of gold in that plancha of silver. I thought when it was separated the value of that gold would bring that up in value.

By Senator DOLPH :

Q. This piece you speak of is the piece you started to bring away with you?—A. Yes, sir.

By Mr. WILSON :

Q. You selected that ore from the El Cristo pile?—A. It was no selection; it was just shoveled down by a man; he simply shoveled from a pile about as high as that [indicating] this quantity.

Q. So that there was no selection for the purpose of getting good ore?—A. No, sir; I took it as it ran.

Q. Now, don't you know that these veins run very irregularly as to the value of the ore that comes out of them; that sometimes there will be a little stretch of poor ore and then a stretch of good ore, and then a stretch of better and poorer and barren rock, and all that?—A. Yes, sir; I know that.

Q. Then you have no assurance that this 10 tons that you reduced was a fair average of that pile of El Cristo ore, have you?—A. No, sir. As I have stated, the Irishman or Mexican took his shovel and threw it from the pile and into the mill, and it was fed immediately to the battery by the mill-men. There was no selection at all.

By Senator DOLPH :

Q. The specimen that was assayed by Mr. Elder was after the 10

tons had been crushed and mixed together; it was the pulp you might call it, and average of the whole?—A. To get the average value; yes, sir.

By Mr. WILSON:

Q. Now, on the 7th of September you wrote to Mr. Garth in regard to this El Cristo as follows:

The better vein in the Cancero or Cross-cut was reached in my absence and promises well.

A. That is by the reports of the miners. Understand a miner comes to me and tells me so, and I am giving what he utters to me to Mr. Garth.

Q. And that is all the assurance you have now, is it?—A. If the head miner. He had been sent out originally, and returned to New York. I think he was away then. But Mr. Cullens, head miner, had been originally engaged, and was there when I arrived. He left me, I think, in July; I could not tell you, but it was in the early season; went to New York, had interviews with Mr. Garth and came back, under an engagement from Mr. Garth, to the mine.

Q. I do not care anything about that.—A. I say that I took his statements as he presented them to me.

Q. That is what I was coming at; that the information you got you derived from that class of people?—A. Yes, sir.

Q. And from miners?—A. From the miners.

Q. And from your own personal knowledge you do not know anything about it?—A. Only so far as any person would be competent to judge of that. That looked dark with a grayish tint of silver.

Q. Very well; let us go on. "The Cristo so far gives better promise than the others."—A. Yes; I had seen these little evidences of gold.

Q. "The metal abundant and good, showing largely and well in the vein and lowest tunnel now being driven to connect with a shaft for draining and clearing the mine." That was the way you understood it at that time?—A. Yes, sir.

Q. And you do not understand it differently now—that the facts were any different from those stated in your letter?—A. I don't know the value of this mine; I simply know the value of that specimen.

Q. I say that this was the condition of things as you were informed it was at the time?—A. Yes, sir; whatever is in that book, written, I stand by now. You need not ask me a second question.

Q. Very well. I want to know whether you know now anything different from what is stated in this letter?—A. I know it yielded metal to the time I came away, that is, ore that they brought down to me, and the only evidence I have of that mine's less value is the product of the first 10 tons crushed by me.

Q. Well, that is the only thing that there would be to in any way change your mind about that thing?—A. Of course.

Q. Otherwise than that you could not testify anything differently from what you have stated right here in this letter, could you?—A. I do not think I could. My information was based upon reports made to me officially every week when the miner would come down for the payment of his men and report to me, and I would frequently go up and see if the advance made corresponded with the reports.

Q. Now, on the 8th of October you wrote again in relation to this Cristo mine as follows:

I transferred the force to the Cristo, in which the metal has increased in quantity and quality. It shows gold largely and promises well.

A. That is it.

Q. That is right.—A. I recollect that circumstance perfectly, but it did not continue. They struck this metal the time I wrote to Mr. Garth and gave him this information.

Mr. FOSTER. Just read this—

I doubt whether your expectations will ever be realized respecting the looked-for yield of metal from the mines, though sufficient may be had to repay well, I trust.

Let us give him the benefit of his report in full.

By Mr WILSON :

Q. Very well. Now, whatever his expectations were—those expectations that he had communicated to you in New York—were they what you were making the comparison with?—A. Of course, when I spoke of his expectations, they could only be such as were communicated to me.

Q. In New York?—A. I had not seen him since I left New York.

Q. Exactly, and when you wrote that, you were writing it in reference to what he said to you about the \$1,300 a ton?—A. Not especially with that.

Q. Well, what was that written with reference to?—A. His general belief that there was great value and wealth deposited there. He did not specify any one mine, but in the mines at the hacienda. He believed there was the source of untold wealth. I believe he was perfectly honest in every word he said.

Q. Well, it was with reference to that that you mentioned his expectations here?—A. Yes, sir; the general manner in which he talked, a stranger going to the place.

Q. Now, you have spoken of this man Soto; will you tell us what his official position was there?—A. At the time I was there I don't know that he held any position. He may have been a judge without my knowing it. I never had any intercourse with him. I only knew him as a resident, a private individual keeping a store. Communications came through him, but the only communication I ever had was from a judge—I am not sure, it may be Perez, it may be another.

Q. Communications came from whom?—A. Came through him. It may be brought by Mexican boy in reference to duties. The only instance that occurs to me—

Q. Were these communications signed by him?—A. I never had any written communication from him that I know.

Q. They were all verbal communications?—A. I tell you only in one instance, where a communication came, it came from his house and not from him as judge. I never knew him as an official, that I recollect.

Q. Now from whom did these communications purport to come; these communications or communication, whichever it was?—A. It was from a Mexican judge, the Mexican officer, in reference to duties.

Q. Who was he?—A. I can not tell who he was. I would not know him if I saw him or know his name.

Q. There is such an officer there as Gefé Politico?—A. Yes, sir.

Q. What are his duties?—A. That I do not know.

Q. Is he a judge?—A. I could not clearly define his duties, because I know nothing about them; I never had any intercourse with him.

Q. Is he an official of the Mexican Government?—A. Whether he is appointed by the Central Government or is a State officer I do not know.

Q. Well, he is a man in authority?—A. Yes, sir; a man in authority. I had a communication from him on that occasion of the forced loan, but I do not remember the man's name. It is there given. I do not know who he is. That was one of them, and there may have been other officers there.

Q. I understood you to say that this man Soto was a pestiferous sort of man, or you used some characterizing word?—A. I considered him so. I thought he was an underhand, a very quiet man. He did not show anything exteriorly, for he was always courteous when I saw him, but I thought he was secretly undermining the whole affair.

Q. Why did you think that?—A. I was so informed. I think it was attributed to him and others—the excitement among the workmen when the money gave out, when they came in, each man armed with a machete hidden under his blanket.

Q. Yes, I understand; but I want to understand what there was that came to your knowledge or came to you in the way of information that satisfied you that he was trying to undermine you in that business?—A. I do not say undermine. He was exerting an adverse influence. The people left to themselves seemed to be quiet, harmless people, easily aroused and excited, particularly by a man of their own nation as opposed to a foreigner, and I was told that Soto was at the bottom of this affair; that he was inimical to the establishment and to me being connected with it, for what cause I do not know, and that this evidence of bad feeling arose not so directly from the position in which I was placed, but from the desire of the money that was falling and from the selling of the mine, etc.

Q. You found something operating there to your disadvantage and embarrassment?—A. It did not embarrass me. The only direct evidence I had was that one occasion I speak of when they came in collision with me.

Q. There was a secret hostility or animosity in that community against you or against the company?—A. My impression was that the feeling was one of self-interest. That is my general impression in regard to the whole affair, that as long as their interest could be subserved, as long as anything could be gotten from us they were complaisant. At the same time, these miners, if left to themselves, if treated liberally and fairly and honestly, would go on quietly from one year's end to another, but if there was any interruption or excitement or anybody urged them to wrong they were very easy to inflame.

Q. Now, if a Government official was engaged in that kind of operation it would be very likely to excite and inflame these people and make them antagonistic to you?—A. Anybody who had influence with them.

Q. Yes; and if anything of that kind came from a Government official it would be very likely to excite their animosity and hostility to that company, would it not?—A. I have no doubt of that.

Q. Why did you think this came from Soto, that he was the man who was doing it?—A. Because he kept a store which conflicted to a certain degree with the store at the hacienda. They were only across the road-way, and probably not 100 feet apart. When I went down I supposed that the domain belonging to the company would be under my control wholly. When I arrived there I found this house up; this man's domicile. He owned the house and I never clearly understood my relations with him, how far I dared with safety to the interests of the company interfere with him. I would rather have had him away entirely, but I hesitated to do anything to militate against the interests of the company. I know he influenced these people, for these weekly entertainments were held in front of his house and the liquor, the mescal, was sold in his little shop or store.

Q. Well, you were there in the first place in competition with him in a store?—A. To that degree.

Q. Still there was competition, for he was selling goods and so were you?—A. Yes, sir.

Q. And you were there working a mine out of which if any profit would accrue it would be his interest to have it if he could get it?—A. Yes, sir.

Q. And he was interested therefore in denouncing that mine if he could get an opportunity to do it, wasn't he?—A. He never denounced any mine while I was there. As I described I recognized him without any proof that I could offer in court—often times a person's manner will convey much more than his tongue will. I do not want a man to tell me he means to be impertinent. I can tell it as soon as I look at him; but his manner was enough. Although he raised his hat most courteously when we met I knew the man was not kindly affected towards me, and I strove always to keep aloof from him. I was asked to be present at the election of a judge. I said, "No, I do not want to interfere with your domestic affairs." They said they expected it as the head of the hacienda; the head of the hacienda was always present. I said, "no, sir; I do not want to have anything to do with it."

Q. He was one of these kind of men that can "smile and smile and be a villain;" that is the kind of a man he was?—A. Yes, sir.

Mr. FOSTER. We have them all over the world.

By Mr. WILSON:

Q. Certainly. Unfortunately we had them down there. You do not know who was the *gefe politico*?—A. He was not when I was there.

Q. Who was the *gefe politico*?—A. That I do not know. He lived at San Dimas, I think. The only communication that ever came from the *gefe politico* came from that office.

Q. You have spoken of a forced loan; will you tell us why you thus characterized it?—A. Because it is the term always applied to an occurrence of that kind in that country where the Government forces come to you, whether because of necessity or because of evil disposition, and take from you what does not belong to them by violence or by stress of circumstances.

Q. Well, had you been threatened with violence in this instance?—A. Never, sir; I have been asked.

Q. Asked in what way?—A. I received a note from this officer we have just spoken of; I do not remember the name. The *gefe politico* wrote a note stating the facts of the arrival of an officer in his neighborhood who was in great distress and would have assistance, that that had been levied and my portion was so and so.

Q. That was a polite note I suppose?—A. Perfectly so.

Q. Now don't you know where that note is?—A. That was left with the records of the hacienda, if I recollect I don't know. I never brought it away. I left everything. I brought nothing but my own shirts and underclothing.

Q. Now, you wrote a letter to this *gefe politico*?—A. I answered, I suppose, both of them. They were both courteous notes in their tone.

Q. In that letter you make use of this language:

In conclusion permit me to add that it is very strange to me that the total amount of the tax being \$1,200 the share allotted to the two American companies should amount to half that sum, when there are in the district several residents who have considerable property.

In other words, they had unduly assessed you?—A. That is what Mr. Rice and I thought.

Q. Well, that was your conclusion at that time?—A. Our conclusion was, they did not get it but they asked for it.

Q. I am not talking about whether they got it or not. In your estimation at that time they had levied upon you more than they ought to levy upon you?—A. As we thought.

Q. Well, you thought so then?—A. Yes, sir; and I think so now.

Q. You were acquainted with the situation, do you think differently now?—A. That they ought to have levied it?

Q. Do you think that they levied more upon you than your proper proportion?—A. I was led to that simply by Mr. Rice. There were wealthy men there; there were others who had means, how many I do not know, but I thought it was strange to ask a foreigner, two companies, to give half the total in a mining region where there were wealthy natives.

Q. In other words, you thought that they had assessed you more than was a fair proportion?—A. They asked for it; yes, sir.

Q. And you do not think differently now?—A. No, sir; I do not.

Q. Now you got a note from the commander of this military force?—A. At the same time; both came together.

Q. That was Colonel Valdespino. Where is that note?—A. They were all together at the hacienda, the same disposition made of all letters, put in the desk.

Q. Do you recollect what your letter to Valdespino contained?—A. Well, you have got me under oath and you are all lawyers around. I would like to say what occurred to me and yet I could not assert it—

Q. Well, say the best you can?—A. Because it is an evil suggestion and I have no grounds except the thing just suggested to me.

MR. LINES. Well, the note is in evidence and right before the committee.

MR. WILSON. Where is it?

MR. LINES. It is in your case before the commission.

MR. FOSTER. I want to ask the chairman to have the original letter read.

By MR. WILSON :

Q. Now you received that letter from Valdespino and wrote this:

SIR: Your favor of yesterday informs me of the sad situation in which you find yourself for the lack of resources and of your intention to procure them preparatory to leaving the district.

Now, how did you understand his letter?—A. Why it was explained by the *gefe politic*, because they came together.

Q. Very well, but you understood he was coming to take that; you did not give it to him?—A. My impression was that I did give him something and sent the little gift over because I was so advised; that if we did not these men would come into the little town or pueblo settlement where I was, and would not only interrupt the work, but possibly break in and rob the warehouse, take out the property.

Q. That was your understanding of the condition of things at that time?—A. Yes, sir.

Q. Then you go on to say:

Understanding the great need that you are in and considering, as you yourself state, the many evils that we would suffer if you should bring your forces here, I do all I can to overcome the difficulties, and I have sent to the political chief of the district two pieces of mohair and two of bleached cotton, those being the only things among the necessary things mentioned which I have.

It is impossible for me to contribute with money in order to provide you with what you need to-day.

S. Doc. 231, pt 2—8

Be pleased to consider that our reducing works are not complete, and therefore unproductive, without reckoning the many expenses that we yet have to make, the proximity of the rainy season, the scarcity of money, and the abnormal political situation, which can not but cause us serious damages.

I am not, therefore, in a condition to accede, as you desire, to the wishes of the political chief, but have sent him what I have, hoping that they be accepted as a token of my good will.

I suppose that having contributed with what I can I may, as a matter of course, resume my work without fearing the interruption that would be caused by the arrival of armed forces.

Had you suspended your work in consequence of the proximity of those forces and anticipated raid on your property?—A. I had made no change but the men had left their work, and their families, some of them, had fled from the village in alarm. They heard this force was there and coming, and knowing the habits of their own people better than I, had taken that course of procedure. The work was interrupted probably a day or two.

Q. Those were the Mexican forces?—A. Mexican forces.

Q. And they were running away from their own forces?—A. Yes, sir.

Q. Did that stop the work?—A. Not suspended by me, it was interrupted.

Q. Then you say:

I suppose that, having contributed with what I can, I may, as a matter of course, resume my work without fearing the interruption that would be caused by the arrival of armed forces.

A. Certainly.

Q. In other words, you supposed—A. That I might give the people assurance that the whole thing was settled and come back to work, that I had arranged it.

Q. You had arranged so that these armed forces would not come in there?—A. Yes, sir.

Q. Now you have already said you found this peculiar atmospheric condition, if I may say so?—A. It was an undercurrent you could perceive, without putting your hand upon anything definite.

Q. Yes, you had already perceived that, and knowing that that undercurrent existed there, that you could not exactly put your hand on—

Mr. FOSTER. He stated the cause.

Mr. WILSON. What cause?

Mr. FOSTER. The gamblers and liquor seller's house and the lack of funds in the company.

Mr. WILSON. I respectfully submit that it would be better to re-examine the witness than to break in in this kind of way.

Q. But this undercurrent you were conscious of; this unfriendly state of feeling you were conscious of, and then this armed force came in in proximity, and your men quit work?—A. That is it, sir. The authorities were always thoroughly civil to me, and I never had any difficulty. I never had any interruption save this I speak to you of. I knew that there was a general feeling of unfriendliness, however polite and courteous they might be to my face. I knew a man might smile and stab me in the back the next moment. I have that impression from conversations had with different people. The first, I think, the first or early in my stay there, I used to ride alone from the mines to Mazatlan, on the coast, on a mule. I went armed, but always alone, and the old lady at whose house I stopped in San Juan cautioned me, saying, "you are wrong: you will be killed." I said "no, madam; I think not. I never interfere, endeavor to be courteous, try to be, and I go quietly about my business." "Yes," she said, "people know who you are, believe that you

carry money, and you must not trust to them. Take always a mozo with you." He is a safeguard, an attendant. And again, whether it was the same time or another occasion after, I am not sure, for I frequently passed there and staid at this lady's house or slept out doors on the porch. One evening an old man of more than average intelligence was in, and they were speaking of the condition—that was after the expulsion of the French, the withdrawal of the French-speaking of the political condition of affairs, and a report had reached there that a company was formed by General Butler to seize the upper States, and it created intense excitement generally among the people, and I spoke to this man—spoke badly, of course, but could make myself understood—and he said he was always glad to see Americans or any one else who came with the right motive, but the moment he was satisfied they came there for the purpose of seizing their Government or in interfering in any way he would cut their throats.

Q. Well, there was hostility to Americans there?—A. That existed at that time and I just mention just what I know. My own clerk, a young man who was employed in the store, a Mexican born and raised in San Ignacio, 70 miles from the mines—he had been educated in California, and spoke English as well as I could; in talking with him one evening discussing this very thing, he just scouted the idea of the withdrawal of the French being due to the United States Government, and I tried to show him that without the United States Mexico would never have got rid of the French; but he scouted it, and speaking of what the Mexicans were capable of and so went on to speak as if they were able to take care of themselves with any people or peoples. I said, speaking to him: "You ought not to give heed to these reports," something of the sort, "because the Americans are friendly to you. They certainly have shown it in this late action of the Government in assisting in ridding you of this foreign control, and you ought to feel kindly towards them." He said, "we hate them." I said—he was only a boy—"how can you?" I said, "I was here in 1847 in the City of Mexico, and you were born about the close of the war. You are a boy now, how can you have that feeling?" "I have no feeling one way or another towards you except, because," he said, "it was taught us by our fathers. They have told us all and they keep at it."

Q. Well, there was hostility and prejudice in their minds against the Americans?—A. I judge from these conversations that that sentiment was hostile, but restrained from self interest, and as long as capital was being placed there and workmen paid it would be well. These men, under an honest employer, who exacted nothing unfair and treated them kindly, would have gone on in their work without interruption, but at the same time this state of feeling existed in the country, and it required very little effort on the part of an evil disposed person to inflame their tempers and minds and make them hostile, and when they became so they would resort to desperate measures.

Q. And whenever their self-interest was adverse to the interests of the Americans that self interest would be asserted to the prejudice of the Americans?—A. That is my belief to the best of my knowledge.

Q. And that was the condition of things during all the time you were there? Now what happened after you were there, of course, you know nothing about?—A. No, sir; I have been away from the country so long, and I have had no intercourse with any of them, except in the court in San Francisco when they asked me to testify to the book.

Q. What do you know in regard to the Mexicans stealing ore from these piles on the patio?—A. I know that we always kept an armed

watchman on the patio, a man with fire-arms who walked there from the time he went on until he came off at daylight, but that is all I know. I have heard it spoken constantly that they would pilfer and steal but I know no instance that I had.

Q. Did General Bartholow tell you that they had been stealing from these piles?—A. I do not recall it. He may have done so but I do not recall it.

Q. Well you kept that man there did you not?—A. I kept an armed watchman.

Q. Did you find him there when you went there?—A. Yes, sir. I merely followed out General Bartholow's rule. He had it under guard.

Q. Well he had it under guard, for what purpose?—A. To protect the ore and the property from pilfering of course. That patio was covered with all kinds of materials, tools, and material, boxes of axes, pick axes, things that we had to guard besides the ore.

Q. Do you know whether any was stolen during the time you were there?—A. I do not.

By the CHAIRMAN:

Q. Were you a soldier in the Mexican war?—A. Yes, sir.

Q. An officer of the United States Army?—A. Lieutenant, Second Artillery.

Q. Have you visited Mexico since that time?—A. I have never been back except on this second trip to the West coast.

Q. You were not surprised to find some aversion to the American people there, were you?—A. Yes, it did surprise me; a youngster like that speaking so. I did not suppose he knew anything about it.

By Mr. WILSON:

Q. Do you know anything of a train being attacked while you were there?—A. I never heard of it that I remember.

Q. You do not know anything about that?—A. No, sir.

Q. Did General Bartholow communicate to you anything on that subject?—A. I heard General Bartholow speak of a train being interrupted. I do not know whether there was any attack upon it. It was interrupted and delayed, I believe. I do not know that his trains had been delayed; they were taken—there, I scarcely dare to speak to you about it. If you will let me tell you in a conversational way without it going down—

Q. Go along.—A. The General's packing, as he told me himself, was done by a man of imperial tendencies and had suffered interruptions from General Corona's troops. General Bartholow had continued to use him afterwards. Whether the interruption took place while they were bringing the machinery up to the mill, or whether it was subsequent, I do not know, but he spoke to me of employing this man if it was possible to get at him, at that time he was not within reach. He advised me to employ him if I could get at him. That is all I know.

Q. The reason I asked about General Bartholow is because in the examination-in-chief they asked you this question:

State what information you received from General Bartholow, as I understand, the former superintendent, as to the condition of affairs when he put you in possession.

Now I want to get all that General Bartholow told you in that connection.—A. I do not know that he told me that in connection with his business instructions, but he mentioned the occurrence; he told me of the interruption and his having arranged with General Corona. It is all I think recorded in the book there.

Q. I am asking you what he told you.—A. He merely mentioned that fact, that his trains had been interrupted, but I never heard or had any knowledge of General Bartholow, that they had been attacked with violence.

Q. Did he tell you about the murder of Grove?—A. Yes, I heard of it frequently.

Q. Well, did he tell you?—A. Yes, sir; he spoke of it. The man was alone and murdered on the highway.

Q. Did he tell you about the robbery that occurred?—A. Yes; he told me Scott came out with funds from Mazatlan and was attacked by men on the road; that they stripped him to the buff, and that he lost this amount of money that the company was charged with.

Q. Did he tell you this, that the Mexicans had been levying or making undue exactions and money demands of him?—A. No.

Q. Now do you not remember of his telling you this, in substance, that they had taxed him on some of his goods 65 percent.? I will read a paragraph here because they have asked you whether Bartholow told you so and so. I want to see if he did not tell you this. I will read a paragraph here because it will simplify it. This is addressed to Señor L. Administrador de Rentas. I suppose that is the collector of taxes.

The WITNESS. The collector of taxes.

(Reading.)

The bearer of this, Mr. William Scott, goes to San Ignacio under my instructions to pay the taxes on the goods I have purchased to supply my miners and laborers, which goods have been received here, on which I am informed through several sources that you or some one else holding office under the Republic of Mexico have determined to force from me as a tax upon these goods a tariff of 65 per cent. I can not believe that any officer of this Republic can be induced to perpetrate such an outrage upon a citizen of the United States, the only Government on the globe which recognizes this Republic and is giving it moral and substantial aid in her present conflict with Maximilian and his European allies. If such a tax as this is imposed upon me I desire General Corona to send here an officer empowered with written authority to take of my effects sufficient to pay it, for I shall, if anything like this sum is demanded of me, put my goods and property under the protection of the flag of the United States, and from under it I intend they shall be taken.

A. He told me about that.

Q. He told you about that?—A. Yes, sir; he told me about having been assessed, how much I can not tell.

Q. Did he tell you about this?

This large amount of machinery will be completed and operating in four months if I am not compelled to stop work on it by these large taxes and restrictions; but as before stated, if anything like such a tax as 65 per cent. is imposed upon my merchandise I had better at once abandon my work, pay off and discharge miners, mechanics, and laborers, and of these I have in my employ thirty Americans and one hundred and fifty Mexicans (these latter Mexicans are wholly dependent on me for their daily food), and leave the country until a time shall come when Americans (citizens of the United States) can find that security and protection from the Republic of Mexico which they are entitled to receive, and which the minister plenipotentiary of the Republic of Mexico at Washington (the capital of the United States) assured my company before we embarked in this enterprise we should have.

Q. Did he tell you about that, or did he tell you the substance of that?—A. The substance he communicated, that he had written an energetic letter and I understand that General Corona had arranged to give him safeguards.

Q. I am simply finding out whether he told you that.

By the CHAIRMAN:

Q. Who was General Corona, what was his command?—A. General

Corona was in chief command of the Liberal forces of that portion of Mexico west of Durango. I do not know how far it extended.

Q. Was he under the state of Durango or the general Government?—A. The general Government, the Juarez Government. He controlled the whole force. I was compelled to go to him myself afterwards.

Q. Why were you compelled to go to him?—A. I went for permission to get into the port. The French were in close siege. The Liberal troops had pushed almost up to the outposts. I came down about the time the Mexicans left. I came down to the port to get money from the banking-house to take back and I had to ride around and find General Corona. I met him and made an appeal to his adjutant-general, and while he was perfectly courteous he rejected it peremptorily; said no one would pass, and I had to go back without the money.

By Mr. WILSON:

Q. Did General Bartholow tell you in substance this, that he had communicated to this collector of taxes:

Now, I am willing and anxious to pay any just and legal internal tax that the laws of the Republic require, but as I have already paid at Mazatlan the *import duties* upon my goods to the imperial authorities who occupy that port, there is no legal right or justice in the officers of the Republic occupying the interior in demanding of me the payment again.

Did he tell you that?—A. Whether it was that special case or not I do not know—that case of special tax he spoke of—because the two Governments, the one holding the sea-port and the other a few miles retired claimed that the rights they would have had if they held possession should be still exercised.

By the CHAIRMAN:

Q. Is Mazatlan in the state of Durango?—A. Sinaloa. Durango ceases just about where our mines were, and west of that for 100 odd miles was Sinaloa.

Q. So that in bringing goods into Mazatlan you would pay the federal taxes first?—A. Yes, sir.

Q. And then in bringing them from the state of Sinaloa into the state of Durango the interstate taxes?—A. Yes, sir.

Q. That was the organization of the Mexican system of taxation, that each state through which goods passed at that time had the right of levying tax upon them?—A. As I understood it; but the point that they made as to national taxation at the port was that the French took them absolutely, got them, and the Liberals outside claimed they ought to be paid though they did not hold the port.

Q. Did General Bartholow inform you that he had paid these double exactions?—A. That I could not say. I could not tell you whether he had paid them or not. Matters had been arranged amicably by appeal to General Corona and he had at the time he left protection for the trains.

Q. When you say arranged amicably, do you mean arranged to the satisfaction of General Bartholow?—A. I suppose so. I recollect one little incident to show he was in no way embarrassed at the time of my arrival.

Q. Did you understand that any demand had been made upon General Bartholow for double taxes, and it had been arranged by General Corona, and that the result was satisfactory to General Bartholow?—A. That I do not recall, that special point, whether it was the special taxation or not. He spoke simply in general terms to me.

By Senator DOLPH :

Q. Did you bring in any goods imported for the company and entered at the custom-house after you were superintendent, and while the French were in possession ?—A. No, sir ; everything from San Francisco had been brought down already. I do not recollect of any arrival afterwards.

Q. So there was no opportunity while you were superintendent to know from your own experience whether any attempt was made to collect customs duties again after they had been once paid at Mazatlan ?—A. No, sir.

By Mr. WILSON :

Q. Now I will ask you if he told you this— A. One moment, I have told you no. It is possible—I had to send myself, I think, to San Francisco for a small supply of provisions. It has just occurred to me that the workmen demanded butter. They would not stay if I would not furnish them butter, which we had not in the country, and I do not recollect whether I complied with it or not ; I am not certain.

Q. Did he tell you this circumstance, which I will describe by simply reading :

I have at last, after meeting with almost extraordinary success in getting my machinery and effects transported without loss or delay, or my works here rapidly approaching to completion, met with a loss by the robbery of Mr. Scott, one of my employes, to whom you will remember you paid a short time since on my account \$1,000. This money, and a small amount besides, was taken from him the day he left Mazatlan by six or seven armed men at a place on the road a few miles from Comacho.

Did he tell you of that ?—A. That is exactly as you read it. He told me about that.

Q. He told you that ?—A. Yes, sir.

Q. Now I wish you to state the condition of that property as to buildings, hacienda, and all that, when you went there and when you came away from there ; how many buildings and what was the character of the buildings and works that had been erected there by the company. Describe the whole thing, everything there.—A. The whole mill, all the new machinery from San Francisco had been brought down, passed Mazatlan, brought up and deposited at the hacienda. The old building, the main building—

Q. I want to know the condition of it when you came away.—A. I thought you said when I went there.

Q. No ; I want to know just the kind of property the company had there in the way of erections, of buildings, etc., at the time you left.—A. When I came away the original building stood. The main object in view—

Q. What kind of a building was that ?—A. That was a building built of heavy stone put up in strong cement, probably as high as a man's head, and on top of that a wall of adobe reaching up probably 20 feet, and the whole was roofed with heavy poles and a tile roof. That was the old building.

Q. What was the size of it approximately ?—A. The court, I recollect, was about 18 or 20 feet, a space I inclosed myself. Probably the building was 20 or 22 feet wide, approximately only, and there were five rooms I think ; it was in the vicinity of 100 feet long.

Q. What other buildings were there ?—A. Then there was an ell to the original building, in which the kitchen was, the dining-room, and a little shed they used to keep the meal and lime piled in, and there was

a small furnace, a little thing that was dismantled; the furnace was there but it was dismantled.

Q. What other buildings were there?—A. Then across the patio, facing this main building, just on the opposite side and east of it was a small building, and here was what we call the tool-house. It was adobe with a mud floor, a window and door in it; what its purpose was I do not know, possibly assaying, something of the sort. The mill had been pulled down, and the new one in course of erection.

Q. What was the size of that mill, about?—A. The wheel, I recollect, was a 24-foot wheel; that I recollect being told—a 24-foot wheel. I suppose the mill was a building of 50 feet square, may be; I am guessing altogether.

Q. What was its height?—A. It simply was a wooden frame, with a shingle roof—poles and shingles. We did not tile that, because we thought the vibration would shake it down. That was brick, a brick wall on one side near the battery, where we fed the ore in. The upper wall only went partially around it. The stone wall came up to the ground level, and upon that the frame-work rested, the heavy timbers holding the roof.

Q. Where did you get the stone from?—A. It was a stone building. The new one was wholly adobe.

Q. What other buildings were there?—A. There was a lower hacienda, if you speak of that. There were two haciendas. The lower one was abandoned—that is, no one occupied it—and the roof in a bad condition, but it was right in front of that that the brick-yard was. There was this large stone floor, large space back of the building, as wide as the whole extent of the wall, the kitchen and all, and covering the great part of this building; that had a low stone wall around it. Further than that I do not remember any building belonging to us.

Q. You have already said that the mill was finished when you left. Now, what was the size and length of the ditch; I mean the dimensions and its length?—A. Now, it is a hard thing to tell. I have seen, reading this, that it is put down there at such a length. I presume that is so.

Q. What is it?—A. It is put down as 3,000 feet, about.

Q. How deep was it and how wide was it?—A. I think from wall to wall the ditch was about that [indicating].

Q. Was it walled on both sides?—A. A great part of it, not entirely. A portion of it led through the abutment or spur of the mountain. That was a tunnel and was without.

Q. That was cut through solid rock?—A. Yes, sir.

Q. Was there a dam to throw water into this tunnel?—A. There was none; when I went there it was gone.

Q. Did you put up one?—A. Yes, sir.

Q. The machinery that was taken there you have already described, I believe?—A. Yes, sir; an ordinary ten stamp-mill. One is identical with another.

Q. How was the material transported there for the purpose of putting up these buildings and improvements you describe?—A. The adobes that went into the walls of the new building were made upon the grounds of the old hacienda that lay to the east of the one occupied by us.

Q. Well, the timbers?—A. The timbers were all brought from a great distance; I am told at least 15 miles. They went up into the Sierra or High range, where the pines grew of right character and there cut them, squared them, and brought them down on their shoulders, or when they had an opportunity to slide them they let them go down a sort of chute.

Q. In case stone was used, where was that from?—A. There was stone all around. You only had to go into the stream 40 feet away, and you would have boulders half the size of this room.

By Mr. SHELLABARGER:

Q. What does this word hacienda include; does it mean one building or a whole group?—A. I understand that it primarily meant the building and immediate surroundings, but when you speak generally it includes the whole estate.

By Mr. LINES:

Q. You made a distinction; you said there was a lower hacienda; distinguished that from the upper hacienda?—A. There I am speaking of the building and the patio attached to it. They were immediately adjacent, one a short distance below, but all included in the property belonging to the company.

By Mr. WILSON:

Q. Now, since you came back to New York and had your interview with Mr. Garth there, when was your attention first attracted to this business and to the facts that you knew?—A. I never heard of it until I received letters, first in San Francisco, with a long list of questions which I could not answer, and I suppose I replied to them—I presume so. I do not recollect whether I replied to the letters or not. I think I must have done so, for they were courteously written.

Q. Who wrote them?—A. One by Mr. Lines and one by Mr. Slaughter.

Q. When was it you got these communications?—A. I could not tell you exactly; years ago.

Q. How many years ago?—A. Well, this is 1888, over ten years ago I should think. Whether the book came first to me or not I can not say. I was at dinner when the waiter came in and said two gentlemen wished to see me. I went out, found the Mexican consul, Mr. Pritchard, and a lawyer with him, and he showed me a telegram signed Zamacona, or some such name as that. The telegram asked whether I would testify to a certain letter-book. I said "I don't know anything about a letter-book, gentlemen." "But," they said, "it contains your letters." That was the first information I think I had of this claim. I said, "if it is a letter-book in which there are letters of mine I can recognize them, but I can do little else than make the declaration you ask for." They went away and a few days afterwards came back and took me down to the court-house, and there were several in the room whom I did not know, but I understood the gentleman who was prominent in the examination was named Sawyer.

Q. That is the time you gave the affidavit?—A. To certify to the book?

Q. Well, I am not inquiring about that; that we have got already. Did you after that receive a list of questions from anybody; and, if so, from whom?—A. I received those two letters with a list of questions as I told you, one from Mr. Lines and one from General Slaughter.

Q. What did you do with those questions?—A. I think I am justified in saying—because they were courteous letters—I think I answered, declining to have anything to do with it and just threw the whole matter aside.

Q. When next were you called upon by anybody in regard to this business?—A. Never until recently Mr. Foster came to my residence in Alexandria.

Q. How many times did he come to see you?—A. Twice.

Q. How long interviews did you have with him?—A. Well, I did

not time it; an hour, probably, or two hours; I will not say that, the first time.

Q. Did he bring any documents with him?—A. He had one of these printed documents.

Q. Did you and he go over it together?—A. No, sir; I did not look at it then. He left it with me.

Q. Did he leave it with you to read?—A. He left it with me.

Q. You read it?—A. I have read it; yes, sir.

Q. When did you next see him?—A. There were two or three days interval.

Q. Where did you see him then?—A. At my own house; in my own drawing room.

Q. How long ago was that?—A. Very recently. I can not tell that exactly.

Q. Within this month?—A. Yes, sir; within this month.

Q. Did you have any conference with anybody else?—A. No, sir.

Q. Have not met anybody else?—A. No, sir.

Q. Nor talked with anybody else?—A. Not in regard to it. Mr. Lines was present a moment when I expressed a desire to see what had been said in the case. I had never even heard, except by the means I have said, of the case and what it was, what it embraced, and I desired to see the testimony and he gave me that copy of the double column book.

Q. Where did he give it to you?—A. Mr. Foster handed me that in his own house. I called on him and asked him for it.

Q. How many times have you visited Mr. Foster at his house?—A. That is the only time, and I was not there but a short time.

Q. Where did Mr. Lines give you this double column book?—A. Mr. Foster gave it to me.

Q. I thought you said Mr. Lines?—A. Mr. Lines brought it over, I suppose, because I met him in Mr. Foster's house.

Q. Brought it from where?—A. I don't know.

Q. You say brought it over?—A. Well, he had just come to Mr. Foster's house and I thought Mr. Lines brought it; that is my impression.

Q. And now you have read it?—A. I have read it. I have mentioned that several times I think.

Q. I will ask you to state now whether or not you have used that for the purpose of recalling to your recollection facts that may perhaps have passed out of your memory?—A. Much of that, even the names of individuals had passed from my mind. It did refresh my memory.

Q. Can you describe now the papers and books that you left in the hacienda when you went away from there?—A. There were books. I do not know whether there was a day-book; there was a blotter, a rough book on the counter. There was a journal, a cash-book, and ledger that General Bartholow turned over to me. Whether there was a day-book or not I do not recollect.

Q. Did you make any new books?—A. Yes, sir; I made some new books, because there were errors in the old, and we had them transcribed and the accounts carried on in the new books.

Q. Did you have there the old books and new books when you left?—A. Yes, sir.

Q. The whole of them?—A. All of them.

Q. What other books did you have?—A. Pay-rolls, called the memorials, showing the workmen's contracts so far as there were any. I think there were some in writing, engagements, and whatever receipts existed. I removed nothing. I left everything as I found it, and all the accumulation.

Q. Did you have copies of the communications that had been made to the officials?—A. What officials?

Q. State, Government, local officials.—A. My time, do you mean?

Q. No; I mean General Bartholow's time?—A. That I can not say.

Q. Did you have bundles of papers there?—A. The memorials, pay-rolls, formed a bundle of papers, the receipts formed a bundle. The letters formed a bundle. Mr. Garth's letters were all put by themselves and tied up.

Q. Now what other documents or papers did you have?—A. There were no books showing the accumulation of ore.

Q. What else?—A. I recall nothing else.

By Mr. SHELLABARGER:

Q. Did those books show fully and truly the state of the accounts, including in them the outlays of every description for hands, labor, material, and everything else that you had to pay for, and also on the contrary all receipts; was there such a book as that?—A. The account, as I understand it, and the statement we submitted to Mr. Garth, to the best of my belief, gave true and accurate statements up to the time I left.

Q. As embodied in the book?—A. Yes, sir; so far as I know.

Q. Well, the same things that were handed over in your statement to Garth were found in the books?—A. Yes, sir.

Q. And more things than those, too?—A. I believe so.

Q. And those books were left by you when you departed and all handed over to Exall?—A. Yes, sir; I made no change in anything. Everything went into his hands. Of course I mean to say so far as we were concerned out there. As to New York I had no knowledge.

Q. I find here about the time of your departure a statement which I will read and ask you whether it is all right, November 17, 1866:

I feel sure that you will experience no greater feeling of annoyance in receiving the intelligence than I do in communicating the fact; but, after debating the thing long and carefully, I am satisfied that it is the best course to pursue. Longer delay in executing the work would be most injurious, perhaps fatal. The only obstacle to our being actively engaged with the mill lies in the unfinished condition of the ditch; this can only be remedied by the use of ready money.

Now, I want, as to that clause, to ask—

Mr. FOSTER. He will understand better if you read just above that to show what it relates to.

Mr. SHELLABARGER. Very well.

In the utter impossibility of obtaining aid here, I have, despite the tone of your letters, drawn upon you for the sum of \$7,000.

Then follows what I have read; and I now get down to what I want to ask about:

The only obstacle to our being actively engaged with the mill lies in the unfinished condition of the ditch.

Now I want to ask is that right? Is that all that lacked of going right to work?

The WITNESS. What is the date?

Q. November 17, 1866.—A. If I said that then I believed it so, and stand by it now. I can tell you nothing more than that.

Q. Now I go on:

I have, therefore, asked for it from the only source to which I can look for assistance. Do not let the delay and cost already experienced cause you or others to lose heart.

Now, was that exhortation not to lose heart sincere?—A. Yes, sir;

any word I ever wrote to Mr. Garth I wrote as if I wrote for my own interest.

Q. Yes, and right below you show that. I read:

But bear awhile longer and give an opportunity to make manifest the value of the metal and the mines.

Now that was sincere?—A. Every word of it. I did not know what hidden wealth might lie there.

Q. You state next what I think shows your integrity and fidelity:

In all my letters I have written with a view to avoid exciting false hopes and ideas, and think it but right so to do, although I know that a more flattering tone would perhaps be more acceptable to many persons. I have done so because of several reasons: First, because it was my desire to avoid giving rise to expectations which might not be realized; and again, because I did not feel sufficiently familiar with the subject to indulge too freely in comment.

Now the question I want to ask, based upon that statement, is this: Whether it was not true as to your correspondence that you were careful not to give a rose-colored account of things?—A. I never did.

Q. And to keep under rather than over?—A. I never gave any exaggerated account and never wrote to him what I did not believe true at the time and believe true now.

By Mr. FOSTER:

Q. I want to refer the witness to the testimony given in answer to Judge Wilson's question in regard to the results of the assay of La Luz ore made, as you state, a month or six weeks after your arrival. You state that they were satisfactory at that time, and the judge read, I think, from a letter referring to that subject and asked you in regard to it. Now I want to call your attention to this same letter from which Judge Shellabarger has just been reading, dated on the 17th of November, 1866, in which you acknowledge receipt of letters from Mr. Garth, dated the 31st of July, 10th, 29th, and 31st of August, etc., and then in the letter you say:

As to the circumstances mentioned in your letter, that certain parties had stated that the specimen ore had been "salted" for my especial benefit and deception, I can only refer you to the mention made of it in one of my letters, I forget which, but that it was done *purposely*, is more than I am prepared to say.

If I understand the term as used by miners, the facts are not as stated. It is, however, true that, though I requested to have the second-class ore of the Luz mine crushed for assay, specimens were taken from the first-class pile and prepared for my use, but I can not say that it was designedly done.

I read that to refresh your memory, and then ask you whether you did not afterwards ascertain that the ores which were then assayed were taken from the first-class pile?—A. As to date and time I am at sea, but that I was informed that that was the explanation which I gave to Mr. Garth is undoubtedly so, and I can not tell now who brought it to me. My understanding of salting is the preparing of a mine itself, by dropping rich particles of ore along a barren track, to induce the examiner to believe that it is bearing rich metal. This, as suggested, if I recollect it, was tampering, so far as it could be called so. I have no reason to believe he would do it purposely, but that the ore given to me, instead of being from the big pile I spoke of, was taken from the smaller, which was over in the corner, and which General Bartholow regarded as very valuable.

Q. You intended that the ores which you were to assay should be taken from the second-class ore, but you afterwards ascertained that they were taken from the first-class ore; is that the fact?—A. Whether I wanted only specimens of the second-class ore or whether I asked for

them from both I do not know, but I spoke of that second-class but I can not give a positive answer as to that; I only know the explanation given to me, as you know how mentions will be made, a person coming and saying it was done so and so. I do not believe fraud took place. It could not have been, for salting, as I understand, is a thing that is done at the mine itself, while if anything was done it was here?

Q. It was not on that point I was asking. You stated here:

It is, however, true that though I requested to have the second-class ore of the Luz mine crushed for assay.

That conforms to your present recollection of the result?—A. Whether I had asked to give me just the second pile, separate and distinguished, I can not tell. I only recollect the fact.

Q. Your statement in the letter at the time would probably be the most accurate?—A. Doubtless so.

Q. You stated to Judge Wilson that the result of that assay was satisfactory?—A. Yes, sir.

Q. Was it satisfactory with the understanding that the ore came from the second class pile and not the first-class pile?—A. I suppose that that assay—I am not sure whether there were one or two specimens, and whether I reported on both, but no one ever complained of that little pile in the corner, but from time to time persons would say there was a good deal of dead rock, until my attention was called to it.

Q. Let me make it a little more definite; the assay was satisfactory to you upon the assumption that the ore had been taken from the place you expected it taken from?—A. That my request had been complied with, whatever that request was.

Q. I want to ask you whether subsequent assays changed your opinion or made your opinion less satisfactory as to the character of the ores up to the time you left?—A. I never made any subsequent assay of the La Luz ore. The only assay of ore was another kind, El Cristo, which was made at the time of the reduction of the small amount, the result of which was sent home.

Q. Was that as satisfactory as this first assay?—A. No, sir; of course not. Stop, you are confusing me. I just catch it now. The last assay, and the result of the crushing, that I know anything about was from the El Cristo; the previous assay and report had reference to the La Luz. They were different ores.

Q. Judge Wilson read from a letter dated October 8, 1866, addressed by you to Mr. Garth, this quotation:

I doubt whether your expectations will be ever realized respecting the looked for yield of metal from the mines, though sufficient may be had to repay well, I trust.

Had you not been reporting from the time of your arrival up to this date the condition of the mines, and had you not communicated to him the assay, that first assay of the La Luz mine, made six weeks after your arrival?—A. I communicated to Mr. Garth the result of that examination, undoubtedly.

Q. Now, in October, sometime after you had been there and after you had communicated with him on this subject, you refer to his expectations; did you confine that to the expectations he had when you had the interview with him in New York, or expectations formed up to the time you wrote to him?—A. When I spoke of expectations I spoke of the impression left on me by those expectations when I left New York. They were convinced they had an El Dorado; that was the manner in which they spoke to you. I asked Mr. Garth, especially, whether it was a speculative thing, or whether it was a legitimate investment of

capital. He told me it was a legitimate investment of capital, and it was with reference to what they had said to me in New York more than anything else; it was in reference to what they looked for. They looked for a return by steamer and he looked for it very speedily, and I was satisfied he was in advance of the true state of things, that he misconceived it, or thought the mill was very much farther advanced.

Q. You have referred to a trouble you had with the miners as the only trouble you had. Was that not occasioned by the inability of the company to make the cash payment due the miners?—A. That was the immediate cause, the pretext, if you choose to call it so; that was the apparent cause; I was out of money.

Q. And not able to meet that?—A. I could not, by stress of circumstances, not because I did not have money within reach could I reach the bankers, but I was obstructed from access to him. These miners, under evil advices, I suppose, then armed themselves and came in, thinking I had made a pretext of not being able to pay, and it was to force it.

Q. Did the company experience any trouble or embarrassment by any act known to you to have originated with Soto?—A. I do not know of his direct participation in anything. It was suspicion on my part simply, coupled with his manner; his general bearing toward me showed he was not friendly.

Q. You have referred, I think, to an old disused hacienda on the property, have you not?—A. Yes, sir.

Q. A lower hacienda?—A. Yes, sir.

Q. Was not that claimed by Soto?—A. That I do not know. I do not recollect of his ever urging any claim upon me. It was used as a place where all the bricks were made under General Bartholow's administration; the brick yard was there, and there were one or two rooms, probably occupied by some of the people attached to our place. I am not positive about that, but it was a place I never went into. It was dilapidated.

Q. Did you hear anything of a law suit between him and the company as to the title to the hacienda?—A. I do not remember anything about it. If I did it has gone entirely from me.

Q. You spoke of the interruption of the work at the time of Valdespino's attempt to levy a forced loan upon you, occasioned by the fear of the workmen; state more explicitly what fear the workmen entertained.—A. I can not tell; I can only tell the facts. We understood it to be that they feared impressment.

Q. Into the army?—A. Into the army for service; taken away from the mines and their families to serve as troopers, and they fled from their work; and the people from the village took up their little duds and scampered off, where I don't know, disappeared.

Q. You understand that to be the method of recruiting the army?—A. That I can not say.

Q. What was your information on that subject?—A. Simply that fear existed on their part. I can not say how they recruit the army. I don't know.

Q. You referred to the hostility entertained in that region against Americans.—A. I do not know anything about what it was. I mean just that which was under my observation.

Q. You mentioned some project General Butler had?—A. Yes, sir.

Q. Just state that a little more fully what that report was.—A. The report was, as near as I recollect, I mentioned General Butler's name because he was a prominent factor connected with it.

Q. General Butler of the U. S. Army?—**A.** General Benjamin F. Butler, as I understood it; that he and other Americans had a design upon Lower California, the state of Sinaloa, and so on; that there was a company raised, that they designed to possess themselves of the country, and that report spread abroad and engendered most bitter feeling in that section immediately around me. I don't know about other places.

Q. Now, was the hostility occasioned also by the fact of the former war between the United States and Mexico?—**A.** That I can not say. All I can tell you is the conversation between this young man and myself; that is the only thing; that carried me back to 1847.

Q. And he referred to that in that conversation?—**A.** He referred to that. He told me their fathers instruct their sons; said, "although I was a child, do you suppose my father has not told me; suppose I am not educated up to it?"

Q. Was this a hostility against any American enterprise particularly or a hostility against the nation?—**A.** A general feeling of dislike, as I understood it, generated by this instruction that was given in early youth; a general hostility.

Q. Did I understand you to say that if an American establishment in the country had capital and complied with its obligations it would escape trouble and embarrassment? State that a little more explicitly?—**A.** I think as long as the interests of the Mexican was subserved he would be amenable and continue in the discharge of his duties. So soon as any adverse circumstances presented themselves by any cause, under the stimulus of an evil-minded person, despite their ordinary quiet tone of conduct, that they would show animosity if excited. They were easily roused. You could easily appeal to them if you had their confidence or their sympathy. I never argued at the time I spoke, only said that it was self-interest that actuated Soto, that they were pulling the chestnuts out of the fire; that is all.

Q. What do you mean by pulling chestnuts out of the fire?—**A.** To benefit him.

Q. In his business?—**A.** In anywise. I do not know what, but to his benefit.

Q. Were the revenues of the company and its disbursements a source of profit and supply to him as well as to the miners?—**A.** I presume there was considerable profit. The ready money, from what I was told and my own observation day by day, passed either to the man who dispensed the wine or the man who dealt in cards, and that the cessation of the stream of supply caused this ill-feeling on the part of these people, and that these gamblers and others—I will not throw the whole burden on this old man—but I thought he was in this plot—that is, so far as that demonstration at the hacienda.

By Mr. WILSON:

Q. How many American companies disappeared from Mexico along about the same time that this one did?

Mr. FOSTER. He says he don't know that this one disappeared.

Mr. WILSON. I asked him how many disappeared about the same time this one did. Let him answer.

The WITNESS. The company at La Puerta—it had a title which I can not recollect, I doubtless knew it—that had closed its operations, that was about a few hours right below. There were other companies to the westward of me nearer the coast that had almost if not wholly suspended their operations. The names of the companies I can not recall.

Q. The Rosario?—A. The Rosario and Candelaria mines, that company had suspended in consequence of an attack upon it.

By Mr. LINES :

Q. Do you know this of your own knowledge?—A. Everybody knew about it. I had workmen in my employ who were there at the time it occurred.

By Mr. WILSON :

Q. Was it not common rumor that these companies could not get along there at all?—A. Yes, sir. I met a superintendent out in China since and he had given up.

Q. Was it not common rumor that owing to the hostilities of the Mexicans to the Americans an American company could not stay there and operate?—A. What they alleged it to be I can not say. The candelaria abandoned because of an attack and the murder of the engineer, whether more than one I don't know, but I know there was loss of life; whether by the hands or outsiders I do not know.

Q. What I am trying to get at is, was it not notorious that an American company could not operate those mines on account of the hostilities of the Mexican people to them; was not that common rumor?—A. There was mention of that, but I do not know how far it was true.

Q. Well, was not that common rumor?—A. It was so said among Americans; yes, sir. I never heard anybody else say it but people interested in the mines, operatives there.

Q. All this rumor you speak of was while you were there at the mines?—A. There was no common rumor. When I speak of common rumor I understand a thing that pervades society, that people are talking of. I mean things mentioned to me by a few persons. The Americans connected with the companies when I would meet them would speak that way of the difficulties and adverse circumstances under which they labored.

Q. Was that at the time you were employed at the mines?—A. Yes, sir.

Q. Do you remember the time when the Rosario Company left Mexico?—A. I do not.

Q. Was it not before you came away?—A. I could not tell you. I know nothing of the company; never saw it.

By Mr. FOSTER :

Q. I understand that your company was able to carry on your enterprise during the time of your superintendency without serious interruption?—A. Never had any from the Government.

By the CHAIRMAN :

Q. At the time you left those mines did you see anything in the conduct of the Mexican people or Mexican Government to indicate that it was unsafe to continue operations there?—A. No, sir; when I left down through the country I could have come alone just as lief as with twenty men.

By Mr. FOSTER :

Q. What was the nearest American company to the La Abra Company?—A. The one at San Dimas, under Mr. Rice.

Q. Name it.—A. The Durango Silver Mining Company.

Q. Were they there when you arrived?—A. Yes, sir.

Q. Were they in operation when you left?—A. What they were doing I can not say; they must have been.

Q. You had frequent communications with that company?—A. I saw them several times; it might be a month or two months.

Q. Do you know of any interruption being occasioned to that company, or threats; any violence being done to them during your superintendency?—A. If you want me to tell you what I know or only confine myself to that question, tell me.

Q. I have asked you whether you have a general knowledge of the condition of affairs at the nearest company to yours, the Durango Mining Company. I want to know now from your general knowledge whether they were interrupted, or had any serious difficulty with the Mexican authorities while you were there?—A. I can not give testimony as to any act on their part interfering with the company directly. I recollect one night, the only one night I ever spent in Mr. Rice's hacienda, I recollect on that occasion the sentiment in the town was so hostile that they told me they were expecting an attack at any moment and were prepared to resist it. That I remember perfectly. I slept in the hacienda that night. As I passed through the town I came—it is a peculiar place to get in; you have to wind up the side of a formation that can be barred by a dozen men; you go through a deep ravine and then to the hacienda, so that people in the town would look down into Rice's hacienda below. These explosions only occurred, I may say, when they were possibly half full of liquor, but that is very frequently. That night I could hear as I lay down to sleep the cries of these people, blackguarding and cursing the people in that hacienda; but there is some excuse to be made for that class of population. When they were sober I never had discourtesy from any of them.

Q. Did that company continue in its operations?—A. They were there when I came away.

Q. And during the time you remained there?—A. Yes, sir.

Q. Was not this condition of things you describe in part owing to the general disturbed state of the country in its warlike condition?—A. There was no war at that time. A soldier never appeared in that part to my knowledge, save this troop belonging to Valdespino.

Q. You are speaking of the particular locality, but war was going on between there and the sea-port you have already described?—A. Yes; but I am speaking of up in the interior. War was existing, the struggle between the two nations was existing, up to the time about I left.

Q. Was not the civil authority somewhat suspended owing to the war?—A. That I could not tell.

Q. Judge Wilson has referred to the murder of Grove, and read to you from Mr. Bartholow's letter. I read now from the letter written April 10, 1866, addressed to Mr. Garth, in which he refers to the murder of Grove as follows:

I wrote you fully in my last letter detailing the circumstances of the murder of William Grove and the finding of his body. Since then the liberal authorities have taken the matter in hand and arrested one of the murderers at this place. The villain was actually in our employ, doubtless for the purpose of ascertaining when an opportunity should offer to waylay and murder another of our men if the prospect for plunder was sufficient to warrant the risk. When the officers arrested I had him conveyed to the blacksmith shop and securely ironed. The next day he was conveyed to San Ignacio and thence to Cosala, where he was tried. We failed to convict him for the murder of Grove, but was convicted for the murder of a woman, who he killed previously, and sentenced to be shot, and before the execution of the sentence he confessed the murder of Grove, and revealed the names of his two confederates.

Does that conform to your recollection?—A. I know nothing about it; simply it was mentioned before General Bartholow's departure; he told me, and substantially as he told me to the best of my recollection.

I could not particularize it like that, but that is the general sense of what he told me.

Q. Judge Wilson has read to you from a letter addressed by General Bartholow to the administrador de rentas, who I understand is the tax collector?—A. Yes, sir.

Q. At San Ignacio remonstrating against the heavy taxes. I will repeat it. I read now from the letter of Mr. Bartholow to Mr. Garth. Do you recollect this as part of that occurrence?

To give you a better idea than I could do by detailing the transaction in this letter of one of the many difficulties I have to meet and overcome, I inclose you a letter that I wrote to the collector of taxes at San Ignacio, which explains itself. The result was, instead of paying taxes to amount of \$3,000 or \$4,000, as was demanded, we only paid about \$30, and there was no necessity of troubling General Corona with the matter.

Do you recollect that as a part of the narrative of General Bartholow?—A. I do not recollect it especially. He may have mentioned—I recollect he spoke of difficulty with his pack-train, and sending to General Corona, and his having difficulty about the taxes, but do not remember the phraseology or his words.

Q. Well, does that conform to your general impression that it resulted in his escaping from the large amount of taxes as he stated; is that your general impression?—A. I could not tell you about the payment of \$30. I don't know anything about that. He would not tell me details in a conversation.

Q. Judge Wilson has read to you from one of Bartholow's letters to Garth about the robbery of Scott. I want to refresh your memory by reading from the letter of April 10 this account:

I so managed it that we never had more than from \$1,500 to \$2,000 at risk at one time, and all came through safe except in one case. This occurred some two weeks ago, when I sent Mr. Scott to San Ignacio to settle our taxes with the authorities. I gave him a check on Messrs. Echeguran, Quintana & Co., for \$1,000 to bring up. Besides this he had some money outside of this sum which was left after paying the taxes in San Ignacio. He got the money as directed and started out of Mazatlan to overtake a train which was bringing up some supplies for us and Mr. Rice, and when about 20 miles out from the port, near the town of Comacho, six or eight armed men sprang into the road and with their guns leveled upon him forced him to dismount, and robbed him of \$1,178 in money, his pantaloons and boots (the latter, however, being No. 12, were too large for any of the villains and were returned). He immediately informed the nearest commander of the Liberal forces of the fact, who sent for him for the purpose of identifying the robbers. He complied, but could not find them for the reason that the officer could not find even half his men. I also at the same time opened a correspondence with General Corona through the prefect, Col. Jesus Vega, at San Ignacio, who by the way is, I think, one of the most perfect gentlemen I have met in the country, and I am of the opinion that but for the turn in military affairs which occurred a few days since, we would in some way or other have been re-imbursed for the loss, but now I have no hopes whatever, and we may as well charge up \$1,178 to profit and loss.

Does that conform in a general way to your recollection of the story?—A. Yes, sir, as I heard it; that amount is charged on the books of the company.

Q. Judge Wilson has asked you in regard to some interviews had with me; can you fix the date?—A. No, sir; I can not tell exactly.

Q. How long was it before you were summoned before this committee?—A. I suppose about a week.

Q. The first?—A. I think the first interview was about a week; I may be mistaken about it.

Q. Then it is within the present month?—A. It is within the present month; it is recently. I think I have got the letter of introduction if you want it.

Q. Was not the book which I gave you at your house the book which I now hand you, Executive Document 274, containing a printed copy of the letter-press and your affidavit?—A. That is what you gave me and the other one is the thick compilation.

Q. This was handed to you when you were at my house?—A. And the week after you handed it to me I came here.

Q. Was this second volume handed to you before or after you had been summoned to appear before this committee; and to refresh your memory, did not you ask in this room whether or not I could furnish you any information as to the character of the charges involved in this claim; was it not in this room that you asked me for that?—A. Yes, sir; it was in this room. You said you would be there at 12 o'clock or half-past 12, and I went immediately down and got it.

By Mr. WILSON.

Q. Where is General Slaughter now?—A. I do not know. I never heard of him since.

The CHAIRMAN. He is in Alabama; he resides there.

The committee adjourned until 10.30 o'clock, October 2.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., October 2, 1888.

The committee met pursuant to adjournment. Present: Senators Morgan (chairman) and Dolph; Hon. Joseph G. McDonald and Hon. Samuel Shellabarger of counsel, and Sumner Stow Ely, secretary of the La Abra Silver Mining Company, and Hon. John W. Foster and Robert P. Lines, esq., representing the Government of Mexico.

TESTIMONY OF DAVID J. GARTH.

DAVID J. GARTH, sworn and examined.

By the CHAIRMAN:

Q. State your name, age, and present place of residence.—A. My name is David J. Garth, my present residence is Westchester County, in the State of New York; my age is 66 past.

Q. Where did you reside in 1865, '66, '67, '68?—A. Well, I resided in the city of New York.

Q. What business were you engaged in?—A. In 1865, '66, '67, '68, '69, and up to 1870, I believe, I was in the brokerage and banking business in New York, a broker and banker.

Q. What office did you hold in the company called the La Abra Silver Mining Company?—A. I acted as treasurer.

Q. You say acted as treasurer; were you then treasurer?—A. Yes, sir; I was the treasurer.

Q. When was that company first organized?—A. I believe it was organized in the fall of 1865, if I remember correctly about it.

Q. How recently had you gone to New York before that organization?—A. I moved there in 1862.

Q. Went from Virginia?—A. No, sir; I went from Missouri.

Q. By what State was that company incorporated?—A. I think under the New York State law.

Q. The general law of New York?—A. Yes, sir; I think so; I believe so.

Q. Who was then the president at its first organization?—A. I think Mr. William L. Hearn.

Q. Who were the principal incorporators of that company?—A. Well, Mr. William L. Hearn, and I think a man by the name of Shackelford, perhaps John H. Garth, myself, and, I don't remember now, some others more.

Q. Do you remember no others?—A. I do not remember whether Dabney Garth was or not. I do not now recall the names. It has been a long time ago, and I have not had any occasion to refresh my memory about it.

Q. Well, before getting into the personnel of the members of this organization, I will ask you where the books and papers of the company are?—A. I have no knowledge. I have not seen them for many, many years.

Q. How many years?—A. I think, practically, my connection with the company ceased about 1874 or 1875.

Q. Has the company been kept up since that time—any regular organization?—A. Well, sometimes; it has been a long time, as I remember, when there were no meetings, and some years, perhaps, when there were no meetings of stockholders; I think so.

Q. Is there at present any board of directors of the company?—A. I think so.

Q. Can you name them?—A. I do not remember all of them.

Q. Name all that you can.—A. I think, if I recall some of the names, Mr. Baldwin is one of them, I know. I think he is the president. I can not remember the names just now; in fact, my memory is very defective in respect of names and faces and dates, but I recollect events very clearly.

Q. Can you name any of the directors now in office?—A. I think John H. Garth was elected a director. Mr. Price, Mr. Gibbs, Mr. Westervay.

Q. You can not remember any others?—A. No, sir.

Q. Do you know when the last election of directors took place?—A. No, I do not remember. I do not think it has been this year.

Q. Well, was it last year?—A. I think it is likely; that is, that there was a meeting of the stockholders.

Q. Now, when did you last see these books and papers, and where?—A. I think it was when Mr. Worthington was the secretary and about 1870.

Q. Where is Mr. Worthington now?—A. I understand he is dead.

Q. Who is at present secretary of the company?—A. I think Mr. Ely is.

Q. Were you both secretary and treasurer when you were there?—A. I never was secretary. I don't think I ever made an entry in the books; never had anything to do with the book-keeping.

Q. Who was secretary then?—A. William Worthington.

Q. He is dead?—A. Yes, sir. He removed about 1871, I think, to Detroit.

By Mr. DOLPH:

Q. What is Mr. Ely's full name?—A. Sumner Stow Ely.

Q. What is his business?—A. He is a lawyer.

Q. Is he the Mr. Ely who is connected with this case as counsel?—A. Yes, sir; he has been the counsel from the beginning. I think he drew up the papers incorporating it. Britton and Ely were our attorneys in business before we knew anything about this business or it was

ever brought to our knowledge. I don't know that it is necessary to say that.

By the CHAIRMAN :

Q. What books were brought to your charge and under your supervision as treasurer of the company?—A. I suppose the secretary kept the accounts and books and did all the writing that was necessary to be done, except the letters which I wrote when the occasion required. It seemed to devolve upon me. I wrote the letters mainly to Colonel De Lagnel, and the superintendents, or whoever they were there.

Q. Well, you seem, from your correspondence here, to have been in general charge of the conduct of the business there; was that authorized by the company; were you considered as the financial and general agent of the company?—A. Well, it seemed to have been devolved on a few of us there in New York mainly. I wrote these letters that were to be copied.

Q. You took charge of the conduct of the business?—A. No; only so far as consultation with Mr. Collins and whatever directors were there; many of the stockholders after the war had scattered abroad. Some went back to Missouri and some probably to Kentucky, etc.

Q. Did any other person besides yourself take charge of the agents of the company in Mexico?—A. Well, not directly.

Q. So far as the orders of the company and its requirements, etc., went, you communicated them to the agents in Mexico?—A. I think so, sir.

Q. And no one else did?—A. I do not remember that anybody else did. There may have been some letters that I do not know of, or may have been some communications that I do not know of, but I think not. I think the thing devolved pretty much upon myself.

Q. Then you filled the capacity of general agent of the company?—A. Well, I don't know that I had a general agency.

Q. Well, you say there was nobody else that took any charge of it?—A. Well, there were some gentlemen in New York connected with the concern, you know, with whom we were in constant communication, talking.

Q. They were your advisors?—A. They were our advisors.

By Mr. DOLPH :

Q. They knew of the correspondence you had with the superintendents?—A. Oh, certainly; we had consultations.

Q. They saw what letters you received, and know what letters you wrote?—A. I suppose so. I judge so, so far as I know.

By the CHAIRMAN :

Q. Have you ever made any search for the books and papers of this company in New York?—A. Yes, sir.

Q. When did you do that?—A. I have done so some time ago at the instigation of Mr. Ely, and I have been unable to trace them up or know anything about them. Mr. Worthington, the last time I knew anything about it, had them. In fact, Mr. Worthington had an office—he was a bachelor, with a rather independent fortune—and he had a small office adjoining mine where he kept his own affairs, and where he had charge of these books. Whenever there were letters come they were shown him, handed to him, and if they were to be answered I got them back, and after consultation with him and Mr. Collins and others who were accessible these letters were written.

Q. Were press-copies kept of the letters?—A. I think so.

Q. Who kept that press-copy?—A. Mr. Worthington. He had charge of all books.

Q. So when you would write a letter you would have it press-copied into Mr. Worthington's book?—A. Yes, sir.

Q. Well you spoke of two occasions, if I understand you, when you made search for these books. You said one was some time ago; how long ago was that?—A. I do not remember. It may be several years ago, and I think, perhaps, at the request of Mr. Ely. I do not remember, though, now.

Q. Well, more recently than that have you made any search for the papers and books?—A. No, sir; I have not made any particular search for them, because I did not know where to go. Mr. Worthington had them, and I did not make any particular search for them.

Q. Did you and Mr. Ely, when you made that investigation or examination, search together for them?—A. No, sir; we did not.

Q. You and he were not together, then, in making the search?—A. No, sir; I went where I supposed that it was likely some old books of D. J. Garth & Co. had been put, but I don't know whether he had put them there or elsewhere, and I did not find them there, and I did not even find mine there; in fact they were all gone.

Q. You had some books also?—A. Yes, sir; old books of D. J. Garth & Co.

Q. A separate firm?—A. Yes, sir.

Q. And you could not find yours there?—A. No, sir.

Q. You kept a book as treasurer, did you not?—A. No, sir; I did not. That was all kept by Mr. Worthington, secretary at the time. I have never kept any books really for a great many years as an accountant; it has been done either by a clerk in my employ, or somebody else. I don't remember ever having made an entry in the books of this company.

Q. Did you ever receive any money for this company except upon stock subscriptions or loans?—A. I think there was a piece of silver that came to New York sent by Exall or De Lagnel—Exall, I think—which sold for three hundred and odd dollars—\$380 or \$390, I think, as near as I can recollect.

Q. Was that gold or silver?—A. It was gold and silver mixed, my recollection of it was. It was silver though with some gold in it.

Q. Did you see that piece of metal?—A. I did.

Q. What was the shape of it?—A. Well, it was in the shape more of a kind of round bowl originally, but had been cut in two, I think.

Q. You sold that, did you, and realized about \$300 from it?—A. Well, a little more, I think.

Q. Is there any other money you received for the company besides that, except upon loans or stocks?—A. I do not remember any, except the subscriptions were paid in cash—in gold, or currency at the gold value.

Q. Now, I want you to state the subscriptions to the stock of the company that were paid and by whom they were paid; all that you can remember.—A. I do not think I could recall all of them. I will try to think of them.

Q. Yes; I wish you would.—A. Mr. Hearn was one, probably among the first.

Q. How much did he pay in?—A. I think his subscription, if I mis take not, was \$20,000.

Q. Was it all paid up?—A. All was paid up in cash.

Q. Who next?—A. Mine was \$10,000.

Q. That was paid up?—A. That was paid up in cash, I think. Dabney C. Garth's was \$10,000.

Q. That was paid up?—A. That was paid up.

Q. Well?—A. I think J. Wilcox Brown's subscription, \$10,000, was paid up in cash. I think ex-Governor Ross's, of Delaware, \$5,000, was paid up in cash—I know it was paid in cash, but I think that is the amount. It is only from recollection I am giving these things. Sidney Shackelford, I think, was \$5,600; it may be more. John Garth, \$5,000; George C. Collins, \$5,000.

By Mr. FOSTER:

Q. All these paid up?—A. All paid up. The amounts subscribed, whatever they were, were paid in cash. As my recollection of it, there were no notes or anything of that sort. The people who subscribed were amply able to pay it and did pay it as they went along. I do not remember all the others nor the amounts. It has been a long time ago, some twenty years, and the fact is I had no occasion to call it to my recollection.

By the CHAIRMAN:

Q. Have you stated all that you can remember?—A. Mr. Bartholow's subscription, I forget what that was. I forget whether it was \$10,000 or what; I do not remember now. Mr. John D. Perry, I forget whether his was five or ten thousand dollars; I don't remember now. There were some others. There was a man by the name of Nuckolls, I recollect; I think his was \$5,000, maybe \$6,000; I don't know what the amount was. There were others whose names don't now occur to me.

Q. What was the whole amount of the stock paid in to that company in money?—A. I think the subscription list, as well as I remember it, was between \$150,000 and \$160,000.

Q. And all paid up?—A. All paid up.

Q. Was it all paid up at the same time or on assessments?—A. I don't remember whether it was all paid on the same day or anything of that sort; there may have been a month between, but there was no such thing as debt, no assessment; everybody paid up.

Q. A man bought his interest and paid for it at once?—A. Yes, that is the way this scheme was organized.

Q. Well, \$150,000 or \$160,000 was the whole?—A. I think the whole of the capital stock and all paid in.

Q. Did you borrow any money?—A. Well, we did not borrow any money. When these drafts came along it was supposed that that was enough to develop the mines. No doubt larger subscriptions could have been had at that time to almost any reasonable amount, but it was supposed that that was enough. I supposed so, and Mr. Bartholow and Mr. Collins. I did not know a great deal about mining. It was supposed that was sufficient to answer the needs of the company, pay for the property, and the developing it to a point at which it would pay and make money, and that was what we designed to do. It happened that it was not.

Q. You understood, then, that drafts were being drawn upon you by the agent of the company out in Mexico, I suppose?—A. Yes, sir.

Q. How did you find the money to meet those?—A. Well, as I say, these gentlemen had scattered a good deal, these drafts came along and I put my hand in my pocket and paid them.

Q. Yourself?—A. Yes, sir; to the amount of from \$20,000 to \$25,000, and Mr. Collins, the president, did the same, and other men did the same, to what extent exactly I do not recollect.

Q. Well, I would like to know your best remembrance about them; you paid \$20,000 or \$25,000?—A. Yes, sir, I think perhaps over \$25,000.

Q. How much did Mr. Collins pay?—A. I think he paid about the same.

Q. And then you say perhaps there were others?—A. Mr. Hearn paid some; he paid considerable; I don't know; he was out in West Virginia and he sent money on; and my brother paid a good deal; he was around New York; probably \$10,000 or \$15,000, may be more.

Q. Have you stated all you remember of the different individuals and the amounts they paid?—A. I think Mr. Nuckolls paid some, and perhaps others. I do not now recollect; these things have been a long time ago.

Q. Was the stock of these different gentlemen increased in proportion to the amounts they paid for the company?—A. There was never any stock issued to them, except upon the original subscription, that I remember of or know of.

Q. Then these were loans to the company?—A. Yes, sir; they were advances.

Q. Did these gentlemen hold the company's paper for these advances?—A. I think for the most of them.

Q. They hold it yet, then?—A. I presume they do. I do not know. I know they do to some extent. I don't know whether they were all settled by a note or not.

Q. Has there been suit brought by these gentlemen for the loans?—A. I think there was at one time.

Q. Do you recollect who brought suit?—A. I think John Garth brought suit, perhaps.

Q. Did anybody else bring suit for these loans?—A. Not for these loans.

Q. Did you ever bring any suit?—A. No.

Q. What was the aggregate of these loans as you remember it?—A. I don't recollect. It was, I should judge, as much as \$60,000 or \$70,000, and may be a little more.

Q. Well, that, with \$150,000 or \$160,000 that you mentioned as having been paid in by the stockholders, was the sum you had then for expenditure in Mexico?—A. I think—my recollection of it is that it was about \$300,000 that was spent there; that is for the payment of the mines, etc., what was out was about \$300,000. It might have been a little more or less, I do not remember how much, but I think it was somewhere in that neighborhood.

Q. For which stock certificates were issued to the amount of \$150,000 or \$160,000, and you think the paper of the company was probably given to these different gentlemen for the loans?—A. I know there was to some. There was some given to my firm, which I re-imbursed to them and took the note. Not knowing if it was worth anything, I did not want to saddle these loans on the firm, and I settled that business myself in cash.

Q. And the company left you without the means of meeting these drafts, and then you had to go out and raise it yourself?—A. Yes, sir. I had to raise it myself, and Mr. Collins.

Q. Has none of that money ever been re-imbursed by the company to the gentlemen who loaned it?—A. Not a penny that I know of.

Q. So that the company may be said to have been insolvent?—A. So far as the La Abra Company was concerned there was no money. It was all used up long before.

Q. It was insolvent, then, at the time these drafts were drawn?—A. Well, there was no money; you can call it insolvent if you choose.

Q. There was nothing to carry on the business except your efforts to make loans?—A. That was the state of the case.

Q. Now I suppose from the history of this case, as I see it recited in the papers here, that you had a good deal to do with its first organization. I would like for you to state the time when you first visited Mexico on this business.—A. Well I went out I think—I started from New York in the spring of 1865; I don't remember the date, but it was I think in April, 1865.

Q. Did you go alone or did some one go with you?—A. Mr. Bartholow went along with me, and a man by the name of Griffith and a man by the name of Hardy.

Q. All New Yorkers?—A. Well, no; they were there at the time, but I think Hardy and Griffith were Western people originally.

Q. Were they the men who owned the mine at that time or controlled it?—A. Well Hardy had some interest in the mines at the time.

Q. What was Griffith; was he a miner?—A. Yes, sir.

Q. A mining engineer?—A. No.

Q. Just an ignorant miner?—A. No; he said he had been up on the coast of California and knew good rock, and proposed to become interested in the stock of this company. I forgot him; he did take some stock and paid for it.

Q. There was a pretty lively feeling in New York, about that time, about mines in Mexico, Arizona, New Mexico, etc.?—A. I think so.

Q. A good deal of excitement?—A. I think there was a good deal of money went out there.

Q. Well, I suppose the first knowledge you had about any mines at the hacienda or vicinity was the efforts of these men to sell or dispose of it?—A. Yes, sir; I think it was brought to my knowledge by an old relative of mine, Dabney O. Garth, who lived in Missouri, but was in New York at the time—living in New York. Might have moved there away from the troubles of the State. He was an old man and there was a good deal of trouble during the war, and he lived on the Missouri River, and he had nothing but his wife and children to move to New York.

Q. Was he a man of wealth?—A. Yes; I suppose he was a rich man for those days and that country—a quarter of a million dollars, probably.

Q. He brought it to your attention?—A. I think so; he and Hardy.

Q. Who was represented to you at that time as being the owners of this mine or these mines at this hacienda of La Abra?—A. Well, I think that we at first looked at the La Abra mine especially.

Q. But who was represented as being the owners of the mine?—A. Hardy and a man named Luce, I think. Hardy was the principal man that I knew. I did not know the other man.

Q. Luce was a Mexican?—A. I do not think I met him; I do not know; at least I have now no recollection of meeting him.

Q. Well, they were there for the purpose of selling the mine?—A. I do not think Luce was in New York; I do not remember seeing him.

Q. Well, Hardy was there for that purpose.—A. I think that he was not only selling it, but getting up a company to work it.

Q. Stock it?—A. Yes, sir; getting up a company to work it.

Q. What price did he hold it at?—A. I do not remember. I think it was \$22,000 was the price that they got for the La Abra.

Q. Did they first ask a larger price than that for it?—A. I think it is

very likely they did, but I don't remember the details of the negotiation nor how it came out, but I think that was the settled-down figure at which it was bought.

Q. Well, it was not bought before you went out to inspect it, was it?—A. No, sir; that was the understanding.

Q. Your purpose out there was to make some personal observations in regard to the mines, locality, wealth, etc.?—A. That was the object of our going there.

Q. Had you any experience in mining?—A. None at all.

Q. Did any of your party?—A. Well, I do not think Mr. Bartholow had.

Q. You and Mr. Bartholow then represented the American side of this question and Luce and Hardy the Mexican side?—A. I suppose so.

Q. Well, I suppose that Hardy represented this mine as being a very rich mine?—A. Yes, he did.

Q. Did Hardy represent the mine as being a new one just opened or an old Spanish mine?—A. He represented it as being an old mine, the La Abra mine, of great wealth; had yielded great results.

Q. Was that under the Mexican or Spanish domination that it had yielded these great results?—A. I don't remember now.

Q. Well, he produced a record, I suppose, of the mine?—A. I think he did, and he had a plan; he had a survey and report from one Frederick Weidner, a German whom I met out there, a German metallurgist and mining engineer. He had the report and drawings, etc., showing how it was to be developed, and assays were made by Mr. Weidner and probably others.

Q. Was this report a diagram of the La Abra opening or of that and others?—A. The La Abra opening. This was the main, but it embraced also some other property that was not owned by these other people. It would be probably too much in detail for me to describe the appearance of things when I got out there.

Q. We will get that a little later. I want to know about Mr. Hardy's representations to you.—A. Yes, sir.

Q. If I comprehend your answers, it was that Mr. Hardy represented, on the basis of this report and survey of Weidner, that the La Abra mines, the La Abra opening, was the one that was valuable?—A. Yes, sir; he represented it as very valuable.

Q. An ancient mine that had been worked many years ago?—A. Yes, sir; many years ago.

Q. How deep had it been worked into the earth?—A. I don't know how many feet, but it was a great gap.

Q. Several hundred feet?—A. Yes; I know several hundred feet.

Q. Did he bring any ores with him from the La Abra?—A. I think he had; he had reports of yield.

Q. Did you have any analysis made of those ores before you went out to Mexico?—A. I don't remember that we did. It may have been done by them; but I did not, I think.

Q. Do you remember the amount of silver that was said to be contained in those ores, the La Abra ores, that you were discussing there?—A. Oh, yes; well, it was a great chunk. I don't remember now, but it was reported very rich.

Q. Well, about how much?—A. Well, running from—I don't know; hundreds of dollars to the ton, maybe—I don't recollect now, but it was represented as being very valuable.

Q. Well, that was the inducement of your going to Mexico to see it?—A. That was one; yes, sir. I was not in very good health at the time,

and that was another influence, but I thought perhaps a trip of that sort might be of some benefit.

Q. Where did you land when you arrived in Mexico?—A. When we came to Mexico?

Q. Yes.—A. Mazatlan.

Q. Coming down from San Francisco by steamer?—A. Yes.

Q. Who did you find in occupation of military power when you got there?—A. I don't now remember. The country, I learned, was in a turmoil. The French-Maximilian party, were making raids in that direction, and sometimes it was in one hands, sometimes in the other, as I understood. I don't remember now; I don't think I saw any French people there at all. I don't now recollect of seeing any French troops or forces.

Q. Did you have any difficulty in getting out of Mazatlan towards the mines?—A. No difficulty except the rough roads. We were not interrupted in getting there.

Q. Did you have any military pass authorizing you to go out there?—A. I do not think we did. I think may be there might have been some guard around the town that we might have had some pass from, but as to that my recollection is not clear. I do not think there was.

Q. Who composed the party that went out from Mazatlan to Tayoltita, the hacienda?—A. Well, it was Mr. Bartholow, Mr. Hardy, Mr. Griffith, and myself, and there were some servants along, I think; we had some guides, nozos, they call them out there.

Q. I suppose you went out on mules?—A. On mules; yes, sir.

Q. When you got there, did you find any work going on at the mines, or hacienda?—A. There was no work in the La Abra mine going on at all.

Q. Was there any going on at Tayoltita?—A. Yes, sir; Mr. Don Juan Castillo de Valle had some mines there, a number of them.

Q. Were those mines afterwards included in your purchase?—A. We bought of him those mines. They were not included in the purchase of Hardy, nothing to do with that; they were a separate purchase.

Q. What mines did Hardy own or profess to own when you got there?—A. I don't think any except the main La Abra mine.

Q. Do you recollect the area of mining territory that was included in his denunciation?—A. No, I do not. I don't know that I ever knew. I suppose just as much as he wanted.

Q. He had no patent, had he, for the lands?—A. I don't think that is the way it is done there.

Q. No; it is done by denunciation.—A. I think so; I am not familiar.

Q. Did you see any mark on the surface of the area that was embraced within the La Abra mine proper?—A. Well, I saw you could see the vein.

Q. No, I am not speaking of that. I am talking about the surveys on the face of the earth.—A. Oh, no. He had this plan of working of Mr. Weidner, but I did not see the metes and bounds, that I recollect of now.

Q. You did not make any examination of the lines on the face of the earth to see what was included in the area of the La Abra denunciation?—A. No, I did not. I don't know whether it was 1 mile square or 100 miles square.

Q. You don't know anything about that?—A. No, sir.

Q. Well, you paid Mr. Hardy, or the persons he represented, how much; \$22,000?—A. I think that was the amount.

Q. For the La Abra opening?—A. Yes, sir.

Q. No work was being done in that when you got there at all?—A. No, sir.

Q. Then it was Mr. Don Castillo de Valle you bought the other mines from?—A. Yes, sir.

Q. How many did you buy from him?—A. Now I can not tell; there was quite a number of them.

Q. Well, I will call over some. El Cristo; did you buy that from him?—A. Yes, sir.

Q. La Luz?—A. Yes, sir.

Q. The Arrayan?—A. Yes, sir.

Q. And then the Bartholow?—A. No; that was a separate thing; that had nothing to do with it; that was not in mind at all.

Q. Did you buy more than three mines of de Valle?—A. I think three; I don't remember, but they were all in this mountain.

Q. You bought the mines he was working?—A. Yes; the mines he was working, and I think there was some Guadalupe. He had some stock in that that was thrown in in the trade.

By Senator DOLPH:

Q. Was the Guadalupe stock thrown in in the purchase of the La Abra or of the mines you bought of de Valle?—A. In the mines we bought from de Valle.

By the CHAIRMAN:

Q. What did you give de Valle for all of these mines?—A. I think the price was \$50,000.

Q. Fifty thousand dollars for them?—A. Yes, sir.

Q. And \$22,000 makes \$72,000 you expended for the mines?—A. Yes; that is the amount I remember.

Q. Was that all paid up in money at the time?—A. Well, yes, it was; the \$22,000 paid to Hardy was upon the same basis that others had got their stock. It was considered money, yes, sir. Hardy did not count over that money to me and I did not hand him back the stock which issued to him, you know, in consideration.

Q. Did he take stock in that company for the value of his mine, \$22,000?—A. Yes, sir.

Q. He did not get any money, then?—A. He did not get any cash.

Q. He got \$22,000 stock?—A. Yes, sir.

Q. And no money was paid him?—A. I do not remember any money paid him.

Q. Well, the \$50,000 what you paid Valle was paid in cash, was it?—A. Paid in gold.

Q. While you were out there?—A. I think not. I think it was paid by General Bartholow afterwards. My recollection of it was that it was paid through the Bank of California.

Q. Then drafts were drawn upon that bank in his favor, and he cashed them?—A. I think so, and it was paid after I got to New York or before; I don't remember which now.

Q. Did you witness any of de Valle's workings there?—A. Oh, yes; de Valle had piles of silver when I was there; lots of bars of silver. I don't know, may be some tons; how much or of what value I do not know. I don't remember; but it was piled up in quite a large amount, and, I judge, some thousands of dollars. How much I don't know.

Q. Was this ore that de Valle was working was what was called galena ore?—A. I don't know about galena.

Q. Any lead about it?—A. No, sir; I think not. I think what is called down there "rebellious ore."

Q. I know, but that is a different thing ; no lead in the mine that you saw ?—A. I don't think so. I saw none.

Q. Did you see de Valle work out any of these bars ?—A. I think there was some what they call beneficiating process going on at the time.

Q. The process of beneficiating was going on at that time ?—A. Yes, there was some there going on before we came, but I did not see his arrastra, a big stone something like a sugar-loaf, bigger at one end than the other, and that goes around.

Q. Mules pull it around ?—A. I think he had that run by water, but I did not see that in operation.

By Mr. DOLPH :

Q. Was that the only means he had of crushing ores ?—A. That was the only means I saw there. I think that was the plan he adopted.

By the CHAIRMAN :

Q. Where did he bring his ores from that you saw there on the patio ?—A. They brought them from his mines there.

Q. Which one of the mines, El Cristo or La Luz ?—A. I don't know.

Q. You don't know which ?—A. No, sir ; I do not. I think probably he was working in the La Luz.

Q. Do you know what mine he got these bars of silver out of that you speak of ?—A. I don't know ; he may have got them from that.

Q. You don't know anything about that ?—A. No, sir.

Q. Did you not inform yourself about it ?—A. Only what he told me.

Q. That is good information ; what did he tell you ?—A. I think he told me this silver that was there was the La Luz. I think that was the nearest mine at hand. My recollection is that that was probably nearest the works.

Q. The patio ?—A. Yes, sir.

Q. How far was that from the patio ?—A. Well, may be a mile, may be less.

Q. Up a high mountain ?—A. Oh, yes, the mountain was high.

Q. Steep ?—A. Pretty steep, not as steep as it was higher up though. It was like a sugar loaf.

Q. How far from the La Abra ?—A. I should judge 2 miles.

Q. Well, up a high steep mountain ?—A. Up on top of that high sugar loaf.

Q. How far off was the El Cristo ?—A. Well, that was nearer to the La Abra, lower down the mountain, some distance down ; how far I do not now recollect.

Q. The Arrayan ?—A. I think that was lower down. I am not certain though. I am not certain as to the position of these mines.

Q. Were there any nearer than a mile to the patio ?—A. I think so. I think some of them were not that distance. Perhaps it may have been a mile by the way they zigzag going along, but not a mile, I should think, in a direct course.

Q. While you were there did you go down in the La Abra mine ?—A. Yes, sir.

Q. How often ?—A. I think we went twice.

Q. Did you see any work done ?—A. No, sir ; no work in there. By the way, they had a hammer and chisel and they got out some ores.

Q. Did you see that done ?—A. I did ; yes, sir.

Q. That ore you brought back to New York did you not ?—A. I think we had that beneficiated at the mines ; that is, worked over down there, beaten up.

Q. Well, you brought some ore back with you to New York, did you not?—A. I brought some silver back with me, a little silver brick, 2 by 4 or 5 inches, probably, just a little sample that was probably taken out; may be some of the richest ore was made into that brick.

Mr. DOLPH. Did I understand the witness to say that he saw the specimen taken from the La Abra with a chisel?

The CHAIRMAN. Yes; he says the specimen taken out of the La Abra was beneficiated at the patio.

The WITNESS. I think so now. I do not know whether I brought back any to New York; but my recollection is not distinct on that.

By the CHAIRMAN:

Q. We will call your attention to that a little later. How long did you remain at the village of Tayoltita?—A. Well, sir, it must have been several weeks.

Q. Informing yourself, of course, as to the condition of affairs?—A. Yes, trying to.

Q. During that time of several weeks you were there did De Valle make any run of metal at all?—A. I don't think he did.

Q. Did not clean up his patio and melt it and wash it?—A. I do not recollect.

Q. Do you know what the process was when those ores are beneficiated, whether they are then afterwards treated with heat or whether by quicksilver?—A. I think the ore he claimed to be working then was beneficiated without—

Q. If any came out in a mat or mass that would have to be melted of course?—A. O, yes; they had to melt it.

Q. These bars you say you saw lying there, were they what you call mats or mass or beneficiated silver, or were they pure silver?—A. I don't know how pure; he told me they were pure silver, except that they contained—when he had them assayed, or divided, or parted, whatever it was that had to be done to mint it—he told me they ran from 12 to 15 per cent.; probably 15 per cent. gold; 15 per cent. value; not in weight, of course. Whether that was true or not I don't know.

Q. On what part of the patio did he keep these bars?—A. He kept them in his store-room. He had a store that was, may be, 80 or a 100 feet long; I don't remember now; quite a considerable house, and in that he had these stacks of silver.

Q. Did they have a bright, lustrous appearance like silver, or did they look dark?—A. Well, I don't think they were particularly bright. I don't remember that they shone like a new dollar or anything of that sort; I don't think they were.

Q. Do you know the distinction between pure silver and the mat from which silver is obtained by smelting?—A. No; I should think that depended on the quality of the ore; I don't know.

Q. You don't know the difference between the mat, as it is called, and the silver bar?—A. I don't think I have seen the mat, as you describe it. He said it was valuable; I don't know. I suppose it was such as he had been always taking from there.

Q. Now, during the five or six weeks you staid—A. I did not stay there five or six weeks. I staid several weeks. I don't now remember, probably three.

Q. Well, during the three weeks, and after you bought out De Valle, did he work up the beneficiated ores he had on the patio?—A. I don't think he worked any whilst I was there.

Q. Well, did you work them up or have them worked up?—A. No, sir.

Q. He did not turn over any beneficiated ores to you with the sale of the mine?—A. Not to my knowledge; I have no account of it.

Q. Well, I suppose if you had worked it up you would have brought it with you?—A. Yes, sir.

Q. He moved off, did he?—A. I don't know whether he moved off.

Q. He ceased working after you purchased the mine?—A. I presume so.

Q. Did he have any houses besides the store-house you speak of?—A. Yes, sir; the square, the paved square, and the walls around it, but there was no dwelling that I know of, except what was connected with that store-house and rooms there, dining-rooms and where the men slept. He lived outside in the village while I was there.

Q. Where did the Mexican operatives that worked in that mine live?—A. They lived in the town there.

Q. Tayoltita?—A. Yes; it was a little village.

Q. A little Mexican village?—A. Yes, sir.

Q. They had their own little adobe houses, I suppose, and lived in them. Well, you did not buy the town?—A. Well, I don't know that we did.

Q. You did not buy any houses of those Mexicans, I suppose?—A. Oh, no; we did not get any rent for them.

Q. They were the proprietors, I suppose, of their own little huts?—A. I don't know how it is, whether there is any title to them or just squatted in them as the people do in New York out on the rocks.

By Mr. DOLPH:

Q. I would like to know what time it was you left the hacienda on your trip?—A. I think it must have been towards the end of June; I don't remember.

Q. June, 1865?—A. Yes, sir.

Q. Did General Bartholow go back with you?—A. No; Mr. Bartholow was left there. I think he came back to Mazatlan with me.

Q. Now, who piloted you into the La Abba mine—Mr. Hardy?—A. Mr. Hardy and some Mexicans that we had there, guides and mozos, as they call them there.

Q. Did you go to the bottom of the cut or opening?—A. Yes; we went down to the bottom.

Q. What was the condition down there; did you find a clean opening or did it appear as if the sides had fallen in?—A. They told me down there—I don't know whether it was true or not—that the pillars had been cut out and the débris had fallen to the bottom of the mine. This was a great opening; in some places I suppose it was 15 or 16 feet wide.

Q. How high from the bottom of the opening to the top of the opening; was it open through?—A. Oh, yes; clear up to the very tiptop.

Q. The vein had been excavated clear from the top of the mountain?—A. Yes; they were right in on the vein.

Q. Now, what were you going to say about the pillars?—A. They told me that they were formerly pillars, or masses of ore, left in between to kind of hold the stone.

Q. Well, these masses ran horizontally between the walls of rock?—A. Yes, sir; and those had been worked up and disappeared. A good part of it had dropped down in this hole.

Q. Who was it that used the chisel; chiseled off this specimen?—A. I don't remember whether it was Griffith or whether it was Hardy; it was done by one of the two. I didn't do it.

Q. Who was present; was Hardy there?—A. Hardy was present,

Griffith was present, I was present, and Mr. Bartholow was present, and Mr. Weidner, I think, was present.

Q. Then it was done under the direction of some one; it was done by Hardy, I suppose?—A. I don't know whether it was done under the direction of Hardy or Griffith or Weidner. He was the man who had the plan of the mines.

Q. He was the metallurgist that you mentioned in the early portion of your testimony?—A. Yes, sir.

Q. Now what I desire to know is, what portion of the opening was this portion of the pillar chiseled off?—A. There was quite a number of pillars. I think we took from several places; quite a number of places where these pillars had been, sticking out a foot or more.

Q. The old vein?—A. The old vein; yes, sir.

Q. Did you go down to the bottom?—A. That was covered with rubbish; we could not get at it.

By the CHAIRMAN:

Q. Now, when you came off you left General Bartholow there?—A. Yes, sir.

Q. Was he authorized immediately to go to work mining?—A. That was the expectation; as I understand, he went to work. He went to San Francisco; but I don't remember about that.

Q. Now, had this stock of \$150,000 or \$160,000 that you mention been paid in before you went to Mexico or afterwards?—A. No; it was after I returned from Mexico. These gentlemen were there and they had sent us out to Mexico to report, and they were ready to act on the report.

Q. Had the company been organized as an incorporation before you went to Mexico or after you came back?—A. After I came back.

Q. It was organized after you came back?—A. Yes, sir.

Q. So General Bartholow when he first remained there was not remaining as the agent of the company?—A. No, because there was no company formed.

Q. Who furnished the \$60,000 that you paid to de Valle for these mines that you bought from him?—A. I furnished it myself.

Q. At the time?—A. Yes, sir.

Mr. McDONALD. Fifty thousand dollars. The bargain with de Valle, as I understand it and remember, was \$50,000.

By the CHAIRMAN:

Q. I misunderstood you. I thought it was \$60,000—very good. You furnished the money yourself?—A. I drew on my house in New York through the Bank of California for \$50,000.

Q. So that was your own money you paid there at that time?—A. Yes, sir.

Q. That was re-imbursed to you afterwards when you got up the stock subscription?—A. Yes, sir.

Q. Did Bartholow pay any part of that?—A. He did not pay any part of that. He paid his share, as he informed me, through the San Francisco banking house.

Q. His \$10,000, then, was paid in money?—A. It was paid in cash.

Q. Not in salary?—A. Not in salary.

By Mr. DOLPH:

Q. It is carried in as an expense of the mine, is it not?—A. That is carried in the expense. He said he got it in a banking house in San Francisco. Mr. Bartholow, I will say, was connected with a bank in Saint Louis.

Q. So that will appear in the account of expenses of the mine?—A. I presume so.

Q. Were there any others paid the subscription in the same way?—A. I think so. I think Mr. Griffith did.

Q. Was there a Mr. Collins also?—A. Oh, he was in New York. Mr. Collins was president of the company.

Q. Who was superintendent of the mines?—A. Mr. Bartholow was superintendent.

Q. Well, who was head miner?—A. I don't know. I see a man named Oullins was there. I don't know whether he was head miner or not.

Q. I mean Oullins, not Collins.—A. Well, I don't know anything about him. He was out there, but I don't remember him being there at that time.

By the CHAIRMAN:

Q. When you came back to Mazatlan to go on to New York again you brought with you some specimens of the silver, a brick. You said you brought a brick.—A. Yes; in my pocket.

Q. Did you get that from de Valle?—A. No; I think that was made there on the mine; beaten up probably by hammers or stones, or something of that sort; whatever way it was done, that is my impression now.

Q. Did you bring any specimen of ore with you that you got out of the La Abra opening?—A. I think that I tested it there by Mr. Weidner, or some person who claimed to be competent to do that, but I don't recollect. I may have brought some specimens of ore to New York. It is very possible that I did; I believe probably I did, but I am not clear as to that.

Q. While you were out there did you go down into the La Luz?—A. Yes, sir.

Q. And the El Cristo mine?—A. We did; went down into all of them, I think.

Q. The Bartholow mine was not opened then?—A. I never knew anything about that. That was a matter that Bartholow discovered. Afterwards that turned out to be of no value.

Q. But after you got back to New York you went ahead and organized the company?—A. We did.

Q. And you were chosen as treasurer?—A. No; Sidney Shackelford, I think, was the first treasurer.

Q. And then you succeeded him?—A. Yes; he went to Missouri, and it devolved upon me.

Q. What was your salary as treasurer; how much did the company agree to allow you?—A. Well, it was talked over there. It was to be \$2,000 a year, I think.

Q. Was there no resolution of the board fixing your salary?—A. I don't know but what there was. I don't now remember that.

Q. What was the salary of the book-keeper?—A. I don't remember now.

Q. He had a salary, I suppose, of course?—A. I suppose the secretary had a salary.

Q. I mean the secretary who was book-keeper?—A. He was the book-keeper; yes sir.

Q. Did the president get any salary?—A. The president never was paid any salary; he was to have a salary.

Q. How much?—A. I believe \$2,000.

S. Doc. 231, pt 2—10

- Q. Was that your last visit to Mexico?—That is the only one.
- Q. How long after the company was organized before you took charge of it as general financial manager in New York?—A. I don't remember. Mr. Hearn was the first president, and Sidney Shackelford was the treasurer and secretary I think; I don't remember about it now. I had something to do with the advising, etc.
- Q. This money for stock was paid in very soon after your return?—A. Yes, sir.
- Q. Did you have a meeting of the stockholders, to explain to them the situation in Mexico?—A. Yes, sir; those who were there; just a meeting there. I explained it to them.
- Q. Did you get any permit in Mexico from any of the authorities, civil or military, to open this mine or to conduct the business out there?—A. I don't remember any.
- Q. Was the country much in agitation when you went there over the war that was progressing?—A. Well, I do not think much, in that particular section. It was a mighty out-of-the-way place; an ignorant kind of people out there. I don't think they cared much for government or anything else.
- Q. They are not very loyal to any government, are they?—A. I don't know about that.
- Q. Is the country infested with robbers—banditti?—A. I suppose, more or less.
- Q. You heard of them out there?—A. I did hear of them occasionally.
- Q. Were there any American companies in the vicinity of the hacienda that you bought, mining for silver or gold, when you got there?—A. There was; at San Dimas, I think, about 10 miles off.
- Q. Do you know whether that company is still working there now?—A. I do not.
- Q. Do you know how long it had been there?—A. I do not.
- Q. That was called the Durango Silver Mining Company?—A. I don't remember. Mr. Rice, I think, was the superintendent.
- Q. That was at San Dimas?—A. That was at San Dimas, which was really kind of the head of the district. I think that was probably the head of the mining department, if there is such a thing there.
- Q. The Mexican department of mines?—A. I don't know; I would not say. My idea is that that was the chief place; where the alcalde, or whatever there was, lived.

The committee adjourned until 12 o'clock October 3, 1888.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., October 3, 1888.

The committee met pursuant to adjournment. Present, Senators Morgan (chairman), Dolph, and Brown; Hon. Joseph G. McDonald, Hon. Samuel Shellabarger, and John N. Staples, esq., of counsel, and Sumner Stow Ely, secretary of the La Abra Silver Mining Company, and Hon. John W. Foster and Robert P. Lines, esq., representing the Government of Mexico.

DAVID J. GARTH—Recalled.

By the CHAIRMAN :

Q. When we adjourned I believe I had asked you whether you took back with you from Mexico to New York any specimens of the ores of those mines?—A. I have been thinking about that since you asked that question. It has been brought to my mind, and I remember now that I did. I remember it, too, particularly, from having read over Colonel De Lagnel's testimony, in which he says he saw a specimen in my office; and I now remember that we did probably bring back specimens from all the mines; at least I did.

Q. Were they rich specimens?—A. Yes; supposed to be.

Q. Who selected them?—A. Well, I don't know precisely; we all probably had a hand in it—Mr. Bartholow and myself and Mr. Griffith and Mr. Weidner and whoever were there. We were all together there, and while I was not an expert myself, I suppose that I may have suggested that such a piece was a rich piece. I do not remember that, though.

Q. Did you have any of these specimens analyzed at the mines?—A. I think we had; that is, pounded up and analyzed.

Q. Do you recollect what the yield was?—A. No, not particularly; but they were rich.

Q. Did you see those individual specimens collected yourself, or did you just rely upon their being selected by others?—A. Well, I saw them selected myself.

Q. How many of them came out of the La Abra opening?—A. Probably half a dozen of the old mine at least. We selected them at various places up and down.

Q. Out of these places where the columns had been robbed out of the mine?—A. Yes, sir.

Q. Do you recollect how many came out of either of the other mines?—A. I do not. As to the exact number I don't remember.

Q. Well, your impression was that that was a very rich mine, was it not?—A. That was my impression. It was so stated to me, and I supposed so.

Q. Had you bought any machinery for the mines before you went to Mexico?—A. No, sir.

Q. Where did you buy that machinery?—A. It was bought in San Francisco.

Q. Under whose supervision was it selected?—A. Mr. Bartholow's.

Q. As you went through, or after you had gone down there and bought the mines?—A. Oh, after. My impression is that General Bartholow went from the mines to Mazatlan with me and from thence to San Francisco, and there contracted the purchase. He may have gone on afterwards; I do not remember that particularly. I know he contracted for the machinery.

Q. You never saw the machinery, did you?—A. No, sir.

Q. You don't know what pattern it was?—A. I know nothing about that at all.

Q. It was crushing machinery, or what?—A. I suppose so. It was stamp-mill machinery, such as was common to extract the metal from ore, but what it was precisely I do not know; the pattern or anything about that.

Q. What did it cost?—A. I have no recollection now.

Q. No general recollection on the subject?—A. No; I know we had

some kind of an idea of what the thing would cost, but the whole thing cost very much more than I apprehended or Mr. Bartholow apprehended at the time; much more.

Q. I suppose the taking out of the machinery to the mines on the backs of mules was expensive?—A. Much more expensive than I had any idea of.

Q. Expensive and slow?—A. Expensive and slow, and attended with much more difficulty than one would have apprehended.

Q. The whole amount required to make that a paying investment was much larger than you thought it would be?—A. Yes; it turned out to be so. I suppose it would have been so under the very best of management, but, as I stated, I was no expert in these things.

Q. You had a good deal of correspondence with Mr. Bartholow while he was there?—A. Yes, sir; I had some correspondence with him.

Q. Pretty frequent?—A. The means of communication were not frequent. They were not regular nor not very frequent. It was probably as often as was practicable. I do not now remember.

Q. What did you do with the letters you got from him?—A. They were, I suppose, left with the secretary.

Q. Is that your recollection, that the papers were all kept together?—A. That is my recollection.

Q. In the office of the secretary?—A. Yes, sir.

By Senator BROWN:

Q. Who was the secretary?—A. I think Mr. William Worthington.

By the CHAIRMAN:

Q. I wish to identify some letters we have here which purport to be original letters written by David J. or D. J. Garth [handing witness the press-copy book]. I would be glad if you would look over that batch just in front and see if they are in your handwriting. Examine each one carefully and then, after you get through, state which of those letters are in your handwriting.—A. (After examining letters.) These are all written by me, in my handwriting.

Mr. SHELLABARGER. Name them over by their dates and place so that we will get it in the record.

The WITNESS. There is one May 10, 1867.

By Mr. DOLPH:

Q. Who is it addressed to?—A. To Mr. Charles H. Exall. One of May 20, 1867.

Mr. SHELLABARGER. State in each case where they are dated at and to whom addressed.

The WITNESS. This of May 10 is dated in New York, and directed to Charles H. Exall, Tayoltita, Mexico. This of May 20, 1867, is directed to the same party at the same place. This of May 30 is from the same point, New York, to Charles H. Exall, Tayoltita, Mexico. This of June 10 is to the same party, from the same place. This of July 10, 1867, to the same party, at the same place. This of July 20, 1867, is directed to the same party, at the same place. This from New York, August 10, is to Charles H. Exall, at Tayoltita, Mexico. This from New York, October 10, 1867, is to Charles H. Exall, Tayoltita, Mexico. I believe that is all that I see.

By the CHAIRMAN:

Q. What relation had Mr. Exall to this La Abra Silver Mining Company?—A. Mr. Exall was left in charge there.

Q. By whom?—A. Mr. De Lagnel, I think.

Q. By authority of the company?—A. I don't know that he was directed there by the authority of the company; I don't think he was. He was hired by the company to go out there as an employé of the company.

Q. In what capacity?—A. To aid Mr. De Lagnel in any way he could do so.

Q. What was his occupation or profession before?—A. I don't know. I had very little acquaintance with Mr. Exall before he went there.

Q. Did you employ him, or did some other member of the company employ him?—A. Well, he was employed by the trustees, who were there at the time. I was one of them.

Q. You call them trustees?—A. Yes; trustees, or directors, or whatever you choose to call them.

Q. What were they, directors or trustees?—A. Well, they are synonymous in my mind; call them directors if you choose to.

Q. There was no deed of trust, was there?—A. Oh, no; I made a mistake probably in calling them trustees. The idea that I wished to convey is that they were directors.

MR. FOSTER. In their official report they style themselves trustees

By the CHAIRMAN:

Q. Do you know whether Mr. Exall had any special training as a miner, a mining engineer, assayer, anything like that?—A. I do not know that he had.

Q. He was a business man?—A. He was a young man that, I think, came from Richmond there and was probably an acquaintance of Mr. Worthington. Mr. Worthington was originally from Richmond. They were acquainted, and I think he was introduced by Mr. Worthington. Mr. Genter also, who was in my office, had known his family and possibly was acquainted with Mr. Exall himself; I don't know.

Q. About how long did Mr. Exall remain in charge of the business out there?—A. I don't know. He stayed there after De Lagnel left. I think Mr. De Lagnel left in May, 1867, somewhere about there. It may be earlier or may be later. He must have remained there about a year.

Q. After De Lagnel left?—A. I think so.

Q. Was he in charge of the operations of the company in that mining hacienda?—A. I think he was.

Q. Did that include the whole control of the business out there?—A. I think so.

By Senator BROWN:

Q. Did he go out with Mr. De Lagnel?—A. No, sir; Mr. De Lagnel was engaged for the year. His time expired about March 1, 1867, according to my recollection. He notified the company that he would not remain in Mexico after the expiration of his time, and this young man was sent out to aid him. Mr. De Lagnel was sick and——

Q. What time do you think he went?—A. I don't know. He must have gone out in the fall of 1866.

By Senator DOLPH:

Q. In the fall of 1867, you mean?—A. Yes, I think so.

Q. I understood you to say De Lagnel left in the spring of 1867?—A. Yes, sir.

By Senator BROWN:

Q. Do you mean he staid a year altogether or a year after De Lagnel left?—A. I don't know. I don't remember now. Mr. Exall must have come away in the spring of 1868, I think.

By the CHAIRMAN:

Q. Do you know who Exall left in charge when he came away?—A. I don't know.

Q. Did not he inform you?—A. I don't remember that he did.

Q. Did you see him after he returned to New York?—A. Yes, sir.

Q. Did you see him immediately on his return?—A. I don't know whether within a day or two. He came to my office soon after his return; perhaps he may have come the first day; I don't recollect.

Q. Well, do you know whether he left anybody in charge?—A. I don't know.

Q. Did not he inform you?—A. Perhaps he may have done so. I don't recollect about it.

By Senator DOLPH:

Q. Did I understand you to say that Exall was sent out in consequence of Mr. De Lagnel's having notified the company that he would not remain any longer than a year?—A. Yes, sir.

Q. Then he must have been sent out with the expectation that he would take De Lagnel's place, was he not?—A. That might have been the expectation, or it might have been that somebody else would have been found to send out afterwards whom we thought had more experience and better qualifications. He was sent out to aid De Lagnel.

Q. Did you send him out as an assistant to De Lagnel to look after the business?—A. As an assistant to help De Lagnel. Mr. De Lagnel was in poor health.

Q. Did you understand that Mr. Exall had left no one in charge of the property or business there?—A. I do not understand that he left anybody there that was in charge of the business. He represented himself when he came there as having been imprisoned, and left the country on account of the troubles existing there. That was his report to the directors, or trustees, or whatever you call them.

By the CHAIRMAN:

Q. After Exall left there did you receive any letters from any person connected with that business from Tayoltita?—A. I do not recollect of it.

Q. Any communication of any kind from anybody in charge of the business, or in charge of the people?—A. I have no recollection of it.

Q. What was the name of the man that Exall was associated with out there in the conduct of that business?—A. What is the name of the man?

Q. Yes.—A. I don't know anything about the man myself. I have been looking over this printed report here and I see one Granger was with him out there.

Q. What was his given name?—A. I don't know.

Q. Did you ever see Granger?—A. Never; not to my knowledge or recollection.

Q. Did not you see him in New York after Exall got there?—A. I don't remember seeing him at all, ever.

Q. You don't know who he was, or where he went from when he went out there?—A. I do not.

Q. Had he any official connection with the company within your knowledge?—A. Not within my knowledge.

Q. When Exall got ready to leave there did he write to you informing you of the fact?—A. He may have done so, but I have no recollection of letters of that sort. It may have been possible that he did. I have no recollection of it.

Q. Do you remember receiving any letters from Granger?—A. No; I do not.

Q. Mr. James Granger?—A. No, sir; I don't recollect receiving any letters from Granger.

Q. Well, are you prepared to deny that you received any from him?—A. I have no recollection of it. The only thing I can say is that I have now no recollection of ever having seen Mr. Granger, or letters from him.

Mr. McDONALD. Have there been any letters submitted from Granger to Garth?

The CHAIRMAN. Only this book which is identified as the press copy-book of the company. Some letters are here scattered along through this correspondence.

Senator BROWN. Signed by Granger?

The CHAIRMAN. Signed by Granger, and before those letters are letters signed by Exall. I will read one to you here, Mr. Garth, to see if you can refresh your memory:

HACIENDA DE LA ABRA,
Tayoltita, November 8, 1867.

D. J. GARTH, Esq., *New York*:

DEAR SIR: I write you by this steamer to account for your not receiving any letters from Mr. Exall, in case he has not written you from Durango.

Mr. Exall left here on 26th ulto. with bullion for Durango, in company with Mr. Sloan and two mozos, expecting to be back by 5th inst., but regret to say they have not returned, and we have a report that the party was met by a band of robbers before going into Durango and everything taken from them (silver, mules, arms, &c.), leaving them in their underclothing to make their way into the city, about half a day's journey. We do not give full credence, as yet, to this report, but am afraid, from Mr. Exall not returning or hearing from him, it is too true.

I am yours, very respectfully,

JAS. GRANGER.

Do you recollect any incident of that kind?

A. I do not think I recollect it.

Q. Do you remember ever to have had any such information before in regard to Mr. Exall's probable capture by robbers?—A. No, I think not. It rather strikes me that I should have remembered it if I received it, but I would not say whether I did or I did not. I don't know.

Q. You think you heard of the incident?—A. I think there is a letter of Mr. Exall in which he said he went to Mexico with some silver, but I don't recollect his saying he was robbed.

Q. Went to Mexico or Durango?—A. Durango, but I don't recollect that instance of the robbery.

Q. Well, this man Granger does not say he was absolutely robbed, but it was reported, as I understand. After the date of that letter, which appears on the copybook here, come letters from Mr. Exall, bearing date November 17, 1867, from Mazatlan. This other letter I referred you to was dated on the 8th of November. Look at that, and say if that is Exall's handwriting?—A. I would not be able, Senator, to swear to Mr. Exall's handwriting. I can look at it, though.

Q. You are not informed, perhaps, of the qualifications that make a man competent to judge of handwriting?—A. I am not an expert.

Q. It does not require an expert, you know; that is to say, not an

expert in handwriting?—A. (Examining the book.) There is one I could not tell.

Q. Well, that is obliterated by time.—A. Well, sir, I could not determine the handwriting with sufficient accuracy. It is very indistinct and I do not know what letters are his and what are not, or whether they are all his.

Q. Well, the particular one that I asked your attention to, written at Mazatlan, I will read to you, upon the assumption that it is his handwriting, which has been established by another witness, if you can not establish it.

Senator BROWN. How long has it been since the date of this letter?

The CHAIRMAN. About twenty years, I think.

The WITNESS. November 17, 1867.

By Mr. BROWN:

Q. About twenty-one years?—A. Yes, sir.

Q. Well, is your recollection generally good or imperfect as to transactions that took place twenty years ago?—A. Well, imperfect, without something very striking, particularly as to dates and faces. Events that are extraordinary I would likely remember, but my memory is not very good as to dates and faces.

By the CHAIRMAN:

Q. I will read to you this:

MAZATLAN, November 17, 1867.

D. J. GARTH, Esq.,

Treasurer La Abra Silver Mining Company:

DEAR SIR: Yours of the 30th September is just in hand, and contrary to my expectations, contains nothing of an encouraging nature. I expected, after having previously written so positively on reference to the critical state of affairs with me, that you would have sent me by this mail some means to relieve me from my embarrassing position. I have in former letters laid before you the difficulties under which I was laboring, and begged that you would send me means, and was relying much on the present mail, expecting that some notice would have been taken of my urgent demands for assistance to protect the property belonging to the company. To add to my further embarrassment, Mr. Cullins, whose time expired on the 16th instant—since my leaving Toyoltita—(I left there on the 10th for this point), intends to commence suit in the courts here for his year's salary. I am endeavoring to get him to delay proceedings until the arrival of the next steamer (don't know as yet if I will succeed in getting him to delay), when I hope you will have seen the necessity of acting decidedly and sending means to prosecute the works and pay off the debts of the company, or abandoning the enterprise at once. Nothing can be done without a further expenditure of money. I am doing little or nothing in the mines, and will, when I return, discharge the few men which are now at work in them. This I am compelled to do, as I have no money, and my stock is almost entirely exhausted, and I fear if money isn't very soon sent some of the mines will become open to denouncement.

In my last letter I mentioned the amount required for immediate demand, \$3,000, which must be sent out. By next steamer Messrs. Elder, Slone, and Cullins, if paid off, will sail for San Francisco; if not paid off, suit will be commenced, and as I have no means to defend the case, fear it will go against me. When these parties leave, the hacienda will be left almost entirely alone, there being only myself, Mr. Granger, who I am also owing, and I am away much of the time.

What you intend doing must be done promptly. Please send me Mr. Cullins' contract with you. The political state of the country just now is rather discouraging. I hope by the time this reaches you, you will have received statement sent. Everything at mines is as it was when I last wrote, only more gloomy in appearance on account of not being able to employ the people and put things in operation. Please do something immediately, and inform me as speedily as possible.

Yours, most respectfully,

CHARLES H. EXALL,

Acting Superintendent La Abra S. M. C.

Q. Now, did you get that letter from Exall?—A. I don't remember it I may have.

Q. Did you get a letter of that purport?—A. I don't remember it.

Q. You do not?—A. No.

Q. Were you trying to raise money for Exall?—A. I distinctly told Mr. Exall in all my letters, which you will see here, that he must rely alone upon what had been sent there.

Q. Well, before, did you speak about abandoning the mine for want of money?—A. Well, I had determined as I told you before, that I had advanced, as I had promised Colonel De Lagnel to do, sufficient funds to put the mill in operation, and told him that he must rely upon that to not only pay the hands and carry on the work, but, as I hoped unexpected, to re-imburse the persons who were interested in New York, who had advanced the money.

Q. When De Lagnel left there had you determined you would not advance any more money of this concern?—A. I had told Mr. Exall when he went out there, and I told Colonel De Lagnel when he went out there, that I would furnish money to put the mill in operation; what they had told me would be abundant means, as was supposed, to make not only the thing profitable, but to return the advances of those who had made these advances to the company and paid these sums to get the thing in working order.

Q. Now, if I understand, you had made up your mind that if this company was not self-sustaining after it got in operation you would not advance any more money?—A. I had determined not to do it myself.

Q. How about the others?—A. Well, if the others chose to do so, very well.

Q. Did they do it?—A. I don't know.

Q. If they had advanced money, would it not be advanced through you?—A. I don't know; some of them were absent, away.

Q. Would anybody have sent money to that mine except through you?—A. Except they had an interest in it, I suppose.

Q. Well, suppose they had an interest, you were in New York?—A. Well, I was only an individual there.

Q. Do you believe a dollar of money ever went to that mine that you did not send?—A. I don't believe—Mr. Bartholow may have spent it.

Q. Well, do you believe one cent of money was ever sent that you did not send?—A. Not from New York.

Q. Well, from any other place?—A. Not except what Mr. Bartholow spent there.

Q. I know Mr. Bartholow was there; did he spend his money on the ground?—A. Yes, sir.

Q. But got credit for it in the stock?—A. That is my understanding.

Q. Did you ever send Exall any money while he was there?—A. I don't believe I did.

Q. Never sent any?—A. I would remember it if I did, I think.

Q. And this letter was dated six or eight months after De Lagnel left. Now, during that time, you did not furnish any money at all for that mine to anybody else that you know of?—A. Not that I know of.

Q. Let me ask you whether Exall did not frequently write to you and ask you for money?—A. I have no recollection of the dates of his letters or substance.

Q. I did not ask you about the dates. I want to know whether he did not frequently write to you asking for money?—A. I don't know. He may have done so.

Q. Now, don't you know that he did write you?—A. You will find he did write some of those letters; you will find the answers.

Q. Your answers show you got the letters?—A. Yes, sir; I acknowledge that.

Q. Is there any one letter in this batch you can take and say you did not get?—A. I would not say; there may be something in it to call my attention.

Q. You did get some letters, and your letters show you replied to them, from Exall?—A. Yes, sir.

Q. And those letters seem to indicate he was asking money?—A. Yes, sir.

Q. Now, these letters before you, the handwriting of which had been identified by another witness?—A. Yes.

Q. Now, I want you to state to the committee whether you can select amongst these letters any one you are willing to swear you did not receive. There is the book [handing witness the press-copy book.]—A. I don't know that I can do that, Senator.

Mr. McDONALD. Mr. Chairman, I don't know what rules the committee applied to itself in submitting questions to a witness, but that is a very extreme question, it seems to me.

The CHAIRMAN. Extreme, in what direction?

Mr. McDONALD. Why, in asking him if there is a letter he is willing to swear he did not receive.

The CHAIRMAN. The witness has stated that he himself replied to letters which are found in this copy-book. Now he is hesitating about stating the handwriting because he is not an expert. I was not examining him carefully upon that proposition, but, if he is able to state that there are letters he has answered, perhaps I will put the question in that form. Take the letters he has answered and then I want to have the others, the handwriting of which has been proved by Mr. De Lagnel, and see what he remembers that he did or did not receive, and if he can state that he did not receive these letters.

Senator BROWN. Will you allow me to ask him a question in that connection?

The CHAIRMAN. Certainly.

By Senator BROWN:

Q. You were asked if there are any of the letters that you can select there that you did not receive. Allow me to ask if there is any letter there that you can state you did receive that particular one?—A. I can answer that affirmatively; that I can pick out letters that I received from him.

By the CHAIRMAN:

Q. Now pick out those that you can say you did receive and those that you can not say that you did receive.—A. Well, if you will allow me to use this little book (Ex. Doc. 274).

Q. Oh, yes; use anything at all.—A. These letters are so indistinct that if I looked six months I could not identify them at all.

Q. Well, look at both books. I just want to know what is the extent of your knowledge or recollection on that subject.—A. Here is a letter dated May 17, 1867, in which he advises that—I recollect that Colonel De Lagnel lost some silver he was trying to bring away, a little bullion—he says here he succeeded in recovering the bullion. That I remember. I got the bullion. I got the pieces of silver that he sent. I recollect that.

Q. What was the date of that letter?—A. May 17, 1867.

Q. How about the one before that, May 6, dated Tayoltita?—A. I don't know. I think it was very likely I got that. There is nothing in

it to call my special attention to it. It may or may not have been received.

Q. May 17 you do remember having received?—A. Yes, sir; it alludes to the silver. I recollect the silver, which I did get.

Q. Now, here is one dated June 11, on page 73. Read that and see if you can remember it?—A. That advises a draft for \$3,000.

Q. Yes.—A. Yes; I think I received that.

Q. Did you honor that draft?—A. I don't remember now. I did not. I never, as I have stated to you, sent Mr. Exall any money.

Q. That seems to have been drawn through the Bank of California. Did you pay it to the bank?—A. I have no recollection of doing so.

Q. If you paid it do you think you would remember it?—A. I think I would.

Q. Do you know whether the bank paid it or not?—A. I do not.

By Senator DOLPH:

Q. Is it not a fact that the last draft drawn by De Lagnel for \$5,000 was protested in New York and not paid?—A. I think so.

Q. Was anything paid by the company after that?—A. I don't think there were any drafts paid by the company after that, at least not by me. I don't recollect it. There was money paid after that to Mr. De Lagnel, salary.

Q. On account of his salary?—A. Yes; no drafts that I remember of.

By the CHAIRMAN:

Q. I notice on page 73, copied from the press-book apparently, and I suppose it is, a statement of the cash receipts and expenditures at Tayoltita in the month of April, 1867. What do you know about that statement?—A. I don't have any recollection of it now; I presume it was received. I don't know anything about it.

Q. Sent to you?—A. It was probably sent to me, but I don't have any particular recollection of it.

Q. Well, if it was sent to you who sent it?—A. I suppose, if it was sent to me, it was sent by Exall, if he was the only man there to do it, though I have no particular recollection of it. I think it is likely it came and was handed to the secretary. I did not keep any accounts myself.

Q. Well, have you no recollection of receiving a statement of the business transactions there while Exall was in charge?—A. I do not. I asked him—according to my recollection in reading over these letters—I asked him for monthly statements that I never got. I asked Bartholow, De Lagnel, and Exall.

Q. Did De Lagnel make monthly statements?—A. I think not. I think he made one statement; one or two, I don't remember. I don't think any of them made monthly statements. If they did I did not receive them.

Q. Well, you are a business man, are you not?—A. Well, I don't know that I am.

Q. You are a broker and banker, I understood you to say?—A. No; I am a tobacco man, really.

Q. But in New York, if I understood you correctly, you were conducting the brokerage and banking business?—A. Yes, I went into that business in 1865.

Q. Conducting it yourself?—A. No; I was in business with others who claimed to be experienced in it; I did not myself; myself alone.

Q. Well, you naturally wanted an account of what was being done

out there in the way of finances—the receipts and expenditures?—A. Of course, the company wanted that; the directors.

Q. You have no decided recollection about this account at all?—A. No; I could not recollect the particulars of it all.

Q. Well, do you recollect whether you got it or not?—A. I do not. You may take it for granted if you see it there. I have no recollection of it.

Q. I do not take it for granted. I want to know what the facts are. I notice among the expenditures one to James Granger, \$241.50. Have you any idea what that was for?—A. I do not know anything about it.

Q. Have you any recollection that Mr. Granger was on a salary there?—A. No, I don't remember it. I believe there were various employés there whose names I do not recollect, with whom I was never personally acquainted; did not know them or anything about them; some employed by De Lagnel, some by Mr. Exall, some by Bartholow.

Mr. DOLPH. Mr. Chairman, I call your attention to the fact that on page 78 of this printed book Mr. Exall, in his letter of the 13th and 14th of July, says:

Inclosed you have a full statement of the cash transactions; I had it made out as clearly as possible.

By the CHAIRMAN:

Q. Yes. Following that, Mr. Garth, on page 76, 77, 78, of this print, there appears to be a letter which was begun on Saturday, July 13 and continued on Sunday, the 14th.

Senator BROWN. Written by whom?

The CHAIRMAN. By Exall to Mr. Garth.

Q. In which he says he "inclosed a full statement of the cash transactions, and I had it made out as clearly as possible." Now, have you read that letter over carefully?—A. I have read it; yes, sir. I have glanced over it. I have not read it particularly carefully.

Q. That letter of Saturday and Sunday?—A. Yes, sir.

Q. What do you say about it?—A. I don't know. I could not say that I recollect of receiving that particular letter, but I don't deny that I did. I don't know.

Q. Did you refer to that in any of your letters here?—A. I don't know whether I did or not. If I did, that is proof conclusive that I did receive it. I don't remember. If it was acknowledged by me there, that would be sufficient to call it to mind that it was received.

Q. Well, he makes a sort of historical recital here of his financial transactions in that business. Does that accord with your recollection of the information he gave you on that subject? In order to call your attention to it I will read you this July 13 letter:

HACIENDA LA ABRA, July 13, 1867.

D. J. GARTH, Esq.,

Treasurer La Abra S. M. Co., 18 New street, N. Y.:

DEAR SIR: The letters and papers sent by Sor. Molina were received at the hacienda on the 1st of the month.

Did you send any letters out there by Señor Molina?—A. I don't remember Mr. Molina, but it does seem to me now that I did. There was a Spaniard called at the office who was going directly there, and I think I remember the fact of sending a letter by him. The communications were uncertain and long and I think I did send a letter by him, but the name has wholly escaped me. I recollect the fact that the Spaniard, who lived at Mazatlan, or in that section, was going there and called at my office and I availed myself of it to write to him.

Q. (Reading:)

I had been advised by one of the members of the house of E., P. & Co.—

Who was that?—A. I suppose it was some firm they had been dealing with in Mazatlan.

Q. Who were your bankers there?—A. I don't know. I don't think there was any bank there.

Q. I mean banking-house.—A. No; I think they were merchants. I don't know whether there was any regular bank or not.

Q. Gentlemen who exchange and advance money?—A. Yes, sir; did everything.

Q. Bought and sold exchange, and all that?—A. Yes, sir; large dealers.

Q. Well, what were the names of the persons that you dealt with there?—A. You ask me who I dealt with. I did not deal with anybody.

Q. No; I mean the company.—A. Echenique, Peña & Co. and Echequran, Quintana & Co.; there were several they dealt with there, very large merchants, indeed.

Q. Well, this is "E., P. & Co.;" that is Echenique, Peña & Co. (Reading.)

of the movements of Sr. M.; of his meeting with you, etc. Thinking that you would not let so good an opportunity escape to send letters out, I sent a mozo down to meet the steamer *Colon* (a small affair owned by Echequran & Co., which was sent over to Acapulco to meet steamer from Panama, and bring Sr. M. to Mazatlan). Thus it was that I got your letters at such an early date. As Col. De L. had arrived, and of course given you a minute and detailed account of affairs here, I can't say that the contents of your letter surprised me much. I am sorry that Col. De L.'s draft could not be paid, as its being protested I fear will injure the interests of the company both in Mazatlan and San Francisco. All your previous letters to me were to follow out the instructions given to Col. De L. I took charge of affairs at a time when the expenditure of money was absolutely necessary to purchase supplies for the rainy season. Col. De L. left me with only moderate means to buy these various supplies; payment of sundry bills which were coming due, and pay of the workmen who had accounts of three, four, and six months' standing.

Did you know that the workmen were three, four, and six months behind at the time De Lagnel left?—A. I supposed De Lagnel had paid up everything to the time he left. I don't remember now. It seems to me he stated he either paid them up or had left means for paying them up. I don't remember that particularly now.

Q. Then he says:

As I had the money in Mazatlan, deposited with E., P. & Co., and getting nothing for it, I settled up all time bills, getting a discount.

That is, Exall paid it out of his own money?—A. Out of his own money?

Q. Yes.—A. I suppose it was the money left with him by De Lagnel. I don't know anything about that.

Q. (Reading:)

After these various amounts were considered I saw that it was impossible to meet all obligations and have a sufficient surplus to keep me in operation during the rainy season, as it was absolutely necessary to have at the hacienda from ——— to \$1,500. Under these circumstances I drew on you through the B'k of Cal. for \$3,000. E. P. & Co., who have always bought Col. de L.'s drafts on you, did not want money on San F'co; I found it impossible to sell it to other houses, so sent it to Mr. Ralston, cashier B'k of Cal., with request to send me negotiable paper for ———. This paper I could, of course, easily dispose of anywhere. On the strength of this draft I bought my goods, my bill at E. P. & Co.'s amounting to \$577.38, 4 mos. The other bills, amounting to \$728.34, I bought for cash, which E. P. & Co. settled. In addition to this I borrowed \$500 cash to take with me to the hacienda. Before leaving Mazatlan I made other purchases, making the whole amount which E. P. & Co. settled for (in-

cluding the \$500 borrowed), \$1,252.94 cash. This cash was lent and paid for me on my promise of payment by return steamer, which is the one now coming. I informed you by an early opportunity of my intention to draw. I had not then heard from you in reference to Col. De L.'s draft; did not know it had been protested, which, if I had known, I certainly would not have drawn. My draft will, of course, be returned by coming steamer. I wrote you fully when I was down last, informing you of my doings.

A. That letter was received by me, I should think. I know it was by the fact that it was acknowledged.

Q. You know it was?—A. Yes, sir.

Q. Now that letter contained this account?—A. Well, I say it may have come; I don't know.

Q. Now, in that account there is one item, \$241.50, spent for Granger.—A. Well, that may be; I don't know anything about it.

Q. And then at another place his name occurs in a statement of indebtedness of the hacienda on the 1st of July, 1867:

James Granger, book-keeper, \$84.65.

A. Yes; he was somebody employed probably about the business, about the affairs, but who he was or in what capacity I knew nothing.

Q. Did you know at the time that Granger was book-keeper there?—

A. I don't remember. If I did I learned it only from this letter.

Q. Have you no recollection of it?—A. No recollection of it.

Q. Did you examine with care these items of expenditure?—A. I don't remember that I did. I probably handed them over to Mr. Worthington.

Q. Well, what did Mr. Worthington know about it?—A. Well, what did I know about it?

Q. You were the agent of the company?—A. I was no more the agent of the company than Mr. Collins, or Mr. Worthington, or anybody else there.

Q. Did Mr. Collins, or Mr. Worthington, or anybody else you can name ever write a letter of instructions to anybody at the mines directing him what to do?—A. Not that I know of. These letters were written by me after consultation with the directors.

Q. Did anybody ever interfere with the management of that business but yourself?—A. Not that I know of. I do not claim that I was the manager, and do not want to be put in that position. I was not the manager any more than the rest.

Q. Well, you did manage, and they did not; you were that much more the manager than any of the rest?—A. Well, I was the manager to the extent of writing these letters.

Q. Every one of them?—A. Yes, sir.

Q. And you raised all the money?—A. No; I did not raise all the money. As I told you distinctly before, it was raised by me and a number of others.

Q. I mean, by your solicitation it was raised.—A. Some of it was raised by me and some by others.

Q. But it was paid into your hands?—A. It was paid into my hands.

Q. And you met all the drafts?—A. So far as they were met.

Q. But there was no expenditure made in New York that you did not make?—A. No.

Q. And there was no control of the money in New York that you did not take?—A. Well, there were other people there.

Q. Well, now state any one man that controlled that mine in any particular besides yourself.—A. Well, I did not control it.

Q. Well, state somebody else who did.—A. Well, Mr. Collins was

there as president, Mr. Worthington was there, and Mr. Gibbs, and I don't know who else.

Q. Within your knowledge, now, did any person take any part in the management and direction of the operations of that mine in Mexico besides yourself; if so, who was it, and what did he do?—A. Well, I tried, Senator, to inform you that what I did was done in consultation and connection with the other directors who were at hand in New York. It is true that when we talked about those things they would tell me to write so and so, and I did so.

Q. Well, the proposition is a very plain and simple one; it is whether the business of the company was transacted through you?—A. I attended to this so far as these letters were concerned.

Q. Entirely?—A. Well, I don't think anybody else ever wrote out there. I don't think they did, unless personal letters.

Q. All letters controlling that business from New York to the mine were written by you?—A. You have them here, and I acknowledge them.

Q. Well, they were written by you?—A. They were written by me.

Q. I should say that that puts you in charge of that business.

Mr. STAPLES. He says the letters that are shown him were written by him.

By the CHAIRMAN:

Q. Well, was there any letter written by any person or any persons besides yourself, within your knowledge?—A. Not within my knowledge, but these are the letters I wrote.

Q. You need not add that.

Senator BROWN. He has the right to add it.

The CHAIRMAN. Well, let him put it in.

By Mr. DOLPH:

Q. You don't mean to state those were all the letters?—A. I have no recollection how many there were.

Q. Well, you wrote some to Mr. De Lagnel, did you not?—A. I wrote some letters to Mr. De Lagnel, and I wrote to Mr. Bartholow.

Q. His letters refer to yours?—A. Yes, sir.

Q. You wrote to Mr. Bartholow also?—A. Yes, sir.

Q. The letters you have identified are letters to Exall?—A. Yes, sir.

By the CHAIRMAN:

Q. The particular matter I was trying to ascertain was this: I wanted to know who was the agent of the La Abra Silver Mining Company in New York, and directed and controlled the operations of that company in New York.—A. Well, Senator, I tried to explain that as well as I could. I stated that I wrote those letters; that they were written after consultation with the—

Q. Can not you answer the question directly whether you were the agent of that company in New York to control the business in Mexico?—A. No, I won't answer that question, because I was not appointed the agent to control the business.

Q. Who was it?—A. I don't know.

Q. Well, was there anybody else who attempted to do it?—A. I don't know that there was.

Q. Well, if what you did was by the consent of the men who were concerned in the company, were you not the agent of this company to control its affairs in Mexico?

Mr. STAPLES. That is a question of law.

The WITNESS. I don't think you ought to press that.

Mr. McDONALD. I would object to that question.

The CHAIRMAN. It is a question of fact. I insist that the question of the agency of this gentleman for the company is a question of fact. The results and scope of his agency is a question of law. It is perfectly apparent that he knows whether he was the agent or not.

Mr. McDONALD. I submit, Mr. Chairman, that the witness has fully explained his relations to that company and what he did.

Mr. SHELLABARGER. Suppose we let him state it again now; he has been interrupted several times; let us get down to it.

The CHAIRMAN. Well, you may get that on your examination.

Senator BROWN. Well, there may have been others; he may not have been the sole agent.

By the CHAIRMAN:

Q. Well, let us make that clear now. Can not you answer whether there was any agent besides yourself in New York to control the mines in Mexico?—A. Well, I can not answer it categorically.

Q. Do you know of anybody?—A. I can not answer it. I don't know of anybody.

Q. Did you ever hear of anybody?—A. But I don't know that I was the agent.

Q. My question is, did you ever hear of anybody else being the agent?—A. I don't know. I did not ever hear of anybody else being an agent.

By Mr. BROWN:

Q. Might there not have been other persons who acted as agent without you hearing about it?—A. Possibly; I don't know.

By the CHAIRMAN:

Q. Do you believe that there was any other agent besides yourself?—A. I don't think anybody else wrote to these people but myself, but there may have been some private letters to them that I don't know of. But what I want to explain without its going down there is that you are trying to make me say that I was appointed an agent to do this, which is not true. It is not so. I was not a particular agent. It was unfortunate that I was there when these men were scattered, and I had to come forward in compliance with my promise to sustain Colonel De Lagnel until the mills were completed. I paid the money and met the drafts. I did it because I thought it was honorably required of me to do it, as I had agreed to do it, but I was no agent of anybody. This thing was done by Mr. Collins and myself. It seemed to devolve upon me to write these letters, but I was not an agent for anybody or company.

Q. I am not making any allusion now to the form of your employment, but the fact; whether the fact is that these gentlemen came there and intrusted the management of this business to you?—A. They asked me to write these letters and I did so. That was all there was to it. There was no business of the company carried on in New York any more than Washington or anywhere else.

Q. There were collections made in New York?—A. This was more of an association of gentlemen who paid up money.

Q. There was money borrowed in New York?—A. It was borrowed from Mr. Collins and myself and others.

Q. There were debts contracted against the company in New York?—A. I don't know of any.

Q. These loans of money, the advances to the company. You have already stated that the company has been sued upon loans made there?—

A. Yes, sir.

Q. And judgments obtained?—A. Yes, sir; but it was not sued by any outsider.

Q. It makes no difference about that.—A. It was sued by these parties who advanced the money.

Q. It makes no difference; if you were the agent borrowing the money, you bound the company by your contract.

By Senator DOLPH:

Q. In that connection I would like to ask a question. Was not the suit brought against the company by John H. Garth in the year 1867 for all these sums which had been advanced by yourself and others on account to the company, the demands being assigned to him for the purpose of bringing a suit?—A. That was so; yes, sir.

Q. The summons in this printed copy is dated June 8, 1867; and I see the first cause of action is for a promissory note dated the 15th of May, 1867, and made payable to the order of the plaintiff. The second cause of action appears to be upon a promissory note dated May 15, 1867, and made payable to the order of Harrison, Garth & Co. Was that your company?—A. That was the company of which I was a member.

Q. And that seems to be for \$17,180.47?—A. Yes, sir.

Q. You indorsed that to Mr. Garth for the purpose of enabling him to bring a suit against the company for it?—A. That was a friendly suit in order to put these things in the shape of a judgment.

Q. Now, did not this one suit embrace all those claims?—A. No; there were some left out. I don't remember the particulars of it, but there were some claims which were not embraced in that, probably.

Q. What was the nature of the claims not embraced?—A. Some sums advanced by parties not embraced in that. There were probably notes given afterwards. Some of the parties were not in New York at the time.

Q. After the bringing of the suit?—A. Yes, sir.

Q. When was Mr. De Lagnel's salary paid; after he returned to New York?—A. I think it was paid shortly after he returned. I think in the summer of 1867.

Q. Was it after this suit was brought, the 8th of June?—A. I don't remember whether it was before or after, but it was some time during the summer. Mr. De Lagnel was paid by some of the directors just clubbing together.

Q. In this document which purports to be a copy of the complaint of John H. Garth against the mining company, there is first the promissory note which I have mentioned, alleged to have been executed by the defendants, to the plaintiff—that is, to John H. Garth—for \$5,130.07. Then the next cause of action the promissory note, alleged to have been executed by the defendants, to Harrison, Garth & Company for \$17,180.40. The third cause of action, for a promissory note, executed by the defendants, to George O. Collins, \$21,145.17. The fourth cause of action the promissory note, executed by the defendants, to the plaintiff—that is, John H. Garth—for \$1,990.40. The fifth cause of action a promissory note, alleged to have been executed on the 8th of June, 1867—the day when the summons was filed—by the defendants, payable to William L. Hearn, for \$1,990.40. The sixth cause of action a promissory note, alleged to have been executed on the 8th day of June, 1867, the same date on which the suit was brought, to D. J. Garth, for \$1,990.40 on demand.

The seventh cause of action a promissory note, dated on the 8th of June, the day the suit was brought, alleged to have been executed by the defendants, to George C. Collins, \$1,990.40 on demand. The eighth cause of action a promissory note, alleged to have been executed on the same date, June 8, 1867, by the defendants, to S. F. Nuckolls for \$1,990.40 on demand; the prayer of the plaintiff being for \$53,407.71. Now, do you think there were any other demands for borrowed money that were not included in that suit of your brother's against the company?—A. I think there were some, but I don't now remember what they were.

The CHAIRMAN. Senator, what is the date of that suit?

Senator DOLPH. June 8, 1867.

Mr. FOSTER. And judgment July 3.

The CHAIRMAN. By confession?

Senator DOLPH. By default.

By the CHAIRMAN :

Q. Who signed all these different notes that were embraced in that suit?—A. I don't remember now..

Q. Did you sign any of them?—A. It may be so. I think I have got one of the notes in my safe now.

Q. In your safe?—A. Yes, sir. It never has been paid, I know.

Q. Is that one of the notes in the suit?—A. One of the notes mentioned there.

Q. In the suit?—A. In the suit.

Q. You did not surrender it to the court when you got a judgment, then?—A. I did not; it was a friendly suit.

Q. Who signed that?—A. I don't remember now; it was twenty years ago.

Q. That may be; do you remember ever signing a note for that company?—A. Which?

Q. The La Abra Company.—A. I don't recollect; I have no distinct recollection about it.

Q. Well, if you did not sign it, who did?—A. It may have been signed by me as treasurer, or by Mr. Worthington. It would naturally be signed by me as treasurer, or by Mr. Collins as president.

By Senator BROWN:

Q. Who was the president of the company?—A. Mr. Collins.

Q. Is it not usual for the president to sign the note?—A. I don't know that it is. Whatever was customary was probably done.

By the CHAIRMAN :

Q. You state you have no distinct recollection of ever signing those notes?—A. I do say that I have no distinct recollection whether it was signed by me, or by Mr. Collins, or by Mr. Worthington. It is very probable it was signed by me as treasurer. I don't know. I have no distinct recollection.

Q. In whose name did you draw upon—Ralston, or the Bank of California—when you drew these moneys?—A. When I was in California?

Q. No; when you checked out these moneys, or did you check any money out of this bank in favor of the agents of the mines?—A. I don't think I ever did anything of that sort.

Q. They drew and you honored the drafts?—A. Yes, sir.

Q. And sent the money then to meet them?—A. No, sir; they drew and got the money from the bank, and then the bank sent on Bar-

tholow's drafts or De Lagnel's, or whoever they were, and when they appeared at the counter I paid them.

Q. Paid them in New York?—A. Yes; paid them in New York.

Q. You did not send any money to the Bank of California then?—A. Oh, no.

Q. The checks were forwarded to New York and paid there?—A. Yes; that is my recollection.

Q. You say this was a friendly suit to get judgment against the company?—A. That was the idea of putting the matter in a shape of a judgment; that was the understanding at the time. I think that was the idea of it.

Q. That was in June, 1867?—A. I don't remember the date. Whatever is there in that book, I suppose, is the date.

Q. Where was Exall at that time?—A. I don't know. Mr. Exall, when he returned to New York, at whatever time he did, was no longer in the employ of the company.

Q. Well, he was writing you letters then, in November, 1867?—Well, he was in Mexico then, probably.

Q. He was in Mexico?—A. I suppose so. You can see by his letters; I don't remember the time.

Q. The last letter in this book by him is January 24, 1868?—A. Well, if that is the case he was in Mexico.

Q. January 24, 1868, he wrote to you from Mazatlan. So he was in Mexico conducting the mines, while you were all getting judgment against the company?—A. He must have been in Mexico at the time.

Q. What was your object in getting that judgment against the company; what did you want to do with it—bankrupt it?—A. No; we wanted to preserve the matter as a judgment, to put it in the shape of a judgment, that it might be acknowledged.

Q. Are there any other creditors than the gentlemen who subscribed the money?—A. Not that I know of.

Q. Just all in the company?—A. Yes, sir.

Q. No outside creditors that you know of?—A. No, sir.

Q. Did the Bank of California have any debts against you?—A. Not that I know of.

Q. Did they not sue upon the drafts?—A. The draft of De Lagnel was protested; it was not paid by me.

Q. Was it not paid by the Bank of California?—A. I presume so.

Q. Did they not sue?—A. Yes, sir.

Q. Didn't they get a judgment?—A. No; they did not.

Q. Why was that?—A. I don't know.

Q. They brought suit, though?—A. Yes, sir.

Q. Where did they bring that?—A. In New York City.

Q. Before or after you brought this friendly suit?—A. I don't remember.

Senator DOLPH. The record will show they failed to prove the corporation under the laws of the State of California. I would like to ask a question, too, in order that the witness may refresh his recollection. Mr. Garth, I wish you would examine that copy of the complaint in the case of Garth against the La Abra Silver Mining Company, and then refresh your recollection, if you are able to, so as to be able to state whether there were any other claims against the company for money advanced to it not included in that suit, when you are called upon the witness stand again.

A. I do not know how I could do that. My recollection of it is that

there might have been some other claims that were not presented, but it was all by parties in interest here, such as Mr. Harn or myself or Mr. Nuckolls, or somebody else that I don't remember.

Q. Well, Mr. Nuckolls, Mr. Hearn, and yourself all took notes and all for the same amount and assigned those notes to Mr. Garth in order that the suit might be brought by him. Did you take a note from the company at that time for the full amount due you?—A. No; it might have been so. I forgot to mention there was Mr. Sweeney, of Glasgow, was a large stockholder, and I think it very likely that he made some advances to the company, though I do not now recollect.

Q. You do not recollect whether he made any advances to the company or not?—A. No; I do not.

Q. What had been done with the money subscribed and paid in on account of stock at the time you employed De Lagnel in New York?—A. The money had been used up in the purchase of the mines, and in the development and putting up of the machinery, and getting out ores, etc.

Q. How much was due Mr. Bartholow?—A. Mr. Bartholow or Mr. De Lagnel?

Q. No; I mean at the time you employed De Lagnel; how much money had the company on hand at that time?—A. I think when Mr. Shackelford went away Mr. Bartholow had drawn for a sum sufficient to very nearly exhaust what had been paid in on subscription. I think there was very little left.

Q. Do you recollect whether you had as much as \$7,000?—A. It was probably \$5,000 or \$6,000. I don't recollect. I knew there was some balance.

Q. Had the money been used for any other purpose except to pay for the mines, \$50,000, and the money Mr. Bartholow had at the mines?—A. Not a penny that I know of.

Q. Was there any additional money expended in the mines except that which was paid on the drafts of Mr. De Lagnel and to Mr. De Lagnel on his salary after he returned?—A. Yes; we paid Mr. Exall.

Q. Did Mr. Exall have his salary after he returned?—A. He was paid after his return; yes, sir.

Q. How long after his return?—A. I don't remember, but probably a week or month. He was paid by Mr. Collins and myself, and several others, putting our hands in our pockets and paying him.

Q. You don't recollect when?—A. No; it was not long after his return. It might have been a week or ten days, or it may have been a month; I don't remember. Probably some of the people were not handy; might have been out of town; and so we may not have got together enough to just see what we could do and pay him up.

Q. Do you recollect how much it was?—A. I don't remember now.

Q. About?—A. No.

Q. Did it amount to \$5,000?—A. Oh, no.

Q. Three thousand dollars?—A. I think not; no, sir.

Q. Two thousand dollars?—A. It may have been as much as \$2,000, but I know it was not anything like as much as \$5,000 or \$3,000.

The committee adjourned until 11 o'clock, October 4, 1888.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., October 4, 1888.

The subcommittee met pursuant to adjournment. Present: Senators Morgan (chairman), Dolph, and Brown; Hon. Joseph G. McDonald and Hon. Samuel Shellabarger, of counsel; Sumner Stow Ely, secretary of the La Abra Silver Mining Company, and Hon. John W. Foster and Robert B. Lines, representing the Government of Mexico.

DAVID J. GARTH—Continued.

The CHAIRMAN. The secretary will read the question that was pending at the time of adjournment.

The stenographer read the question as follows:

By Mr. DOLPH:

Q. Mr. Garth, I wish you would examine that copy of the complaint in the case of Garth vs. The La Abra Silver Mining Company, and then refresh your recollection, if you are able to, so as to be able to state whether there were any other claims against the company for moneys advanced to it, not included in that suit, when you are called upon the witness stand again.

By the CHAIRMAN:

Q. Have you refreshed your recollection about it?—A. I have thought over the matter some. I recollect none except the claim of non-payment to the Bank of California. The claim, \$5,000, was protested.

Q. All the balance of the claims, then, were included in that judgment?—A. I think so, up to that time.

Q. Does that include your salary, or was your salary paid?—A. No; I don't think anybody actually was ever paid a dollar of salary.

Q. Did the judgment include any dues; anything due you for salary, or anybody else?—A. No, sir; it was simply for moneys advanced by the individuals on account of drafts drawn from Mexico; I think all through the Bank of California.

Q. I suppose that the book-keeper in New York was paid?—A. I don't think Mr. Worthington ever got a dollar of salary; I don't think any of us ever got a dollar of salary.

Q. I believe you mentioned that salaries had been stipulated?—A. Yes, sir; it was stipulated that they were to have, I think, \$2,000 a year; the president, the secretary, and myself.

By Senator DOLPH:

Q. Was the draft on the Bank of California ever paid?—A. I don't think it was.

Q. Can you explain how it is that three officers of the company, Mr. Collins, and yourself, and another one, took notes on the day the suit was brought for nineteen hundred and odd dollars, if it was not in liquidation of salaries?—A. It was not in liquidation of salaries. It was in liquidation of—I think Mr. Collins, perhaps, it has been a long time ago and I hardly recollect—but Mr. John Garth had paid some money at different times and Mr. Collins had and myself, and there was a loan made from the bank which Mr. Collins had got discounted, but it was finally paid.

Q. The note signed by you three gentlemen?—A. I think it was signed by all of us, probably Mr. Collins; I don't remember now.

By the CHAIRMAN:

Q. What bank was that?—A. I think it was the Oatham Bank. Mr. Collins was a director or officer in that bank. It is his bank. The money was raised temporarily, but it was returned to him, he paying his proportion and we ours. The exact figures I do not recollect. It was in payment, however, of drafts paid by us.

By Senator DOLPH:

Q. You received a communication, did you not, from Mr. Exall, in regard to the non-payment of this draft on the Bank of California and the effect it had on the affairs of the company?—A. Yes, I think you will find Mr. Exall wrote about it.

Q. Do you recollect whether or not Mr. Exall wrote to you for the deeds of the mining property, saying they were necessary for use for the Mexican officer?—A. I don't recollect particularly. I don't recollect the particulars of it; he might have done so; I think it likely he did.

Q. Do you know that if the mines are not worked and the denunciation kept up another party might denounce them at the expiration of your license to work them?—A. I knew there was some regulation of that sort, but as to the particulars or how it was done I have no knowledge.

Q. What was the reason you did not raise the money to pay the draft on the Bank of California?—A. Because I had stood in the breach and paid about as much as I intended to do.

Q. You did not intend to raise any more money?—A. That is to say I was not going to put my hand in my pocket and pay every draft that came after I had done all I agreed to.

Q. Did you know that Mr. Exall was coming to New York before he came?—A. I don't recollect that I had any notice of his coming.

Q. Turn to page 86 of the volume you hold in your hand and read what purports to be a letter from Mr. Charles H. Exall, dated at Mazatlan, January 24, 1868, and addressed to yourself, in which he says:

I came down to meet steamer from San Francisco, in hopes of receiving letters from you; I received none, and now, being entirely out of funds and stock, and being sued by the ag'ts from B'k of California for the payment, have to let things take their own course, as I am unable longer to protect your interests here. In previous letters I have given you full and detailed accounts of affairs here, and such frequent repetitions I find useless, and will simply state that I am doing nothing whatever at the mines, and can not until I receive money to operate with; I haven't means to protest now, and they are liable to be denounced at any moment. Some months since I wrote you for titles; the Government demanded them; they have not been received.

By December steamer I sent you a telegram from San Francisco; no reply. The parties I sent the dispatch to in S. F'co sent it on to New York. I am owing considerable, and no means of paying. What is your intention? Is it to let your interests here go to the dogs? You have either to do this or send money out to protect them. If by next steamer I receive no assistance from you, I intend leaving for the East, etc.

What is your recollection about that letter?—A. I have no recollection of having received it.

Q. Do you recollect receiving substantially that information—that the Bank of California was pushing its claim?—A. I don't recollect it.

Q. Don't you recollect getting letters from Exall saying he was out of money and could not go on with the business?—A. I don't recollect that letter you ask about, nor several others.

Q. Well, I ask if you recollect getting information from Mr. Exall that he was out of money and he could not go on with the business at the mine unless you sent him money?—A. I don't know. I supposed the mill was going on, and that they would be able to benefitiate, or

get out silver enough at least to pay their expenses, and I had strong hopes of being able to receive enough to repay to the parties in New York who had advanced this money. That was our calculation.

Q. You now swear that you did not receive any request from Mr. Exall to send him money because that was necessary in order to keep up the business?—A. I don't remember it.

Q. Do you recollect of his informing you of his having attempted to negotiate a draft for \$3,000?—A. Yes, I think there was a letter came to that effect, but I don't now remember the particulars of it.

By the CHAIRMAN:

Q. How long did Exall remain there after you wrote him the last letter that you sent to him?—A. I don't remember. I can not recollect the dates of all my letters or the substance of all my letters that I wrote to Mr. Bartholow or Mr. De Lagnel or Mr. Exall; they were quite numerous. I can not recollect the dates of them. I know I was surprised when Mr. Exall came back, and disappointed in the view that I had hoped he would be able to run the thing successfully.

Q. How many months did Exall remain there in charge of the business that you did not hear from him?—A. I could not say; I don't know.

Q. Was there any month?—A. I suppose there was; I know there was.

Q. You know there was?—A. Yes, sir.

Q. In which you did not hear from him?—A. Yes, sir.

Q. And during which you did not write to him?—A. I think it is possible.

Q. Now was there more than a month?—A. I could not say.

Q. You are satisfied you say it was as much as a month; you could not say it was any more?—A. I could not say the time, it was a long time; I don't recollect the particulars.

Q. When did you make up your mind you would not advance any more money to that concern?—A. I made up my mind when these drafts came in.

Q. What drafts?—A. The drafts of Mr. De Lagnel and of Mr. Bartholow; both of them.

Q. From that time forward you intended to let the concern work itself out if it could?—A. That was the design. I had supposed, all of us had supposed from what we knew of the richness of the ore and the value of it, that if we could only get the machinery started in a little time not only would the money be found or obtained to carry it on and develop it and cut in the adit level, which it was the design to do, but to repay to us the drafts.

Q. Were you not informed and did you not know that from the time Mr. Exall got there until he left he was not getting money out of that business to run it?—A. No, not all the time; I didn't know as to that.

Q. How long did you know that?—A. I don't remember, but I did not know but what he was, as I say, getting sufficient to sustain himself. Finding the thing had been delayed so much getting to work, and that the ores they had run through were not as good as were supposed, as you will see in my letters to Mr. Exall and to others, if they are in existence, I urged upon them the policy of working as close as possible, cutting down expenses and just taking care of the property until a better method should be found. My view was a better method should be found of beneficiation, for I believed all the time honestly, and I believe to-day, that if those ores had been properly managed by a man who really understood the business of mining and beneficiating ores and

had the means to do it—the chemical and the roasting apparatus—they would have been found abundantly rich; I think so.

By Senator BROWN:

Q. What do you mean by cutting an adit level?—A. It was—it takes up so much time to explain it that probably——

Q. Do you mean a tunnel to strike the vein lower?—A. Yes; it was a plan of Mr. Weidner.

Q. Did that apply to the La Abra alone?—A. Yes; that was mainly designed, but in the cutting of this adit level, as it was called, it was designed to strike greatly below the lowest workings where the great La Abra mine had been worked.

Q. So as to drain off the water if there should be any and carry out the ore instead of carrying it up on the backs of the men?—A. Yes, that was the plan, and from the appearance that was shown to me that seemed to be practicable; and it would cut most of the mines, the La Luz, the El Cristo, and others far lower down than they had been worked at all.

By the CHAIRMAN:

Q. Did Exall do any work on that tunnel?—A. I don't think any of them did, but that was the design when I left. Bartholow expected to do so, but, as I say, the thing had cost much more money than we anticipated. It was supposed when we went into this thing that \$150,000 would be all the money needed to do that thing by these estimates. We could have raised twice as much when this thing was gone into if it had been necessary, but particularly Mr. Bartholow was very positive that he would not want any more and objected to our making any effort to get any more. At the time that this business was done it was done by some friends, both of Mr. Bartholow, who were in the West, and of myself in New York there, and the thing was honestly and fairly gone into as a business operation.

Q. Now if I understand you, you say you advised Exall that he must cut down expenses there and work along until he could find some better means of beneficiating the ores?—A. I think I impressed that upon him before he went away, and I think I wrote in a general way, that that ought to be done; advised him to do it.

Q. If you did not know anything about the condition of the mine, whether it was making a living or not, why did you recommend cutting down expenses?—A. Because when Colonel De Lagnel came away he told me it was necessary to cut down expenses and to keep on getting out the richest ore and working out some, and in that way——

Q. Did you have no later information about the progress of the work than that Colonel De Lagnel gave you?—A. Yes, I had some from Mr. Exall. You will find that in these letters from Mr. Exall and which are acknowledged.

Q. Well, Exall's letters informed you that the work was not self-sustaining, did they not?—A. Well, I don't say positively they did. He had some difficulty in getting along with the beneficiation of the ore, and I was in hopes he would constantly improve upon that and would get enough to sustain him and to repay us.

Q. Did you keep up your correspondence with him to ascertain whether he was doing that or not?—A. I think so. I tried to do so.

Q. Did you ever make any complaints of Exall that he did not inform you of the condition of the mines?—A. You see my letters to him and others asked for monthly reports, which I did not get.

Q. Did you ever complain of him not making monthly reports?—A. You can read my letters.

Q. I want to know what you did?—A. I don't know now that I did any more than is expressed in those letters, which is my only recollection. There may have been other letters but I don't now recall them.

Q. You don't remember otherwise than what you see in these letters of expressing discontent with Exall's management or his want of success?—A. I do not.

Q. Now I will get you back and ask if any money has been paid on these judgments you obtained in New York?—A. Not to my knowledge.

Q. Have you ever received anything from this award?—A. I have received—precisely how much I don't know. When this fund was being raised to obtain the testimony there were contributions, voluntary contributions, made up by the stockholders so far as they were accessible, and they contributed pro rata, or whatever they chose to do, with the understanding that the first amount, if there were any awards at all, should be repaid for that purpose. I think that I received on that account probably fourteen, fifteen, or sixteen hundred dollars. I don't remember; it was a small sum.

Q. Did you receive as much as you contributed?—A. No, sir.

By Mr. DOLPH:

Q. Do you mean you did not receive as much as you contributed towards the expenses of the suit?—A. I did not receive as much as I contributed.

By the CHAIRMAN:

Q. How much did you contribute?—A. I don't remember. It was in the neighborhood of \$2,000, perhaps over.

Q. Have you any papers to show what you contributed?—A. Well, there may be some memorandum at home.

Q. Don't you know how much is due you on that account?—A. I don't remember. From recollection I could not state.

Q. You don't know how much money you advanced for that purpose?—A. I don't remember the exact sum.

Q. But it was over \$2,000; how much over \$2,000?—A. I don't remember precisely. I think there were two times when application was made, and I recollect that I contributed as it was made to me. I had long since ceased to have any active connection with the company and I just contributed as I was asked.

Q. How much does this company owe you now on account of that judgment?—A. I hardly know. I have received no payments.

Q. How much does the company owe you; how much is your interest in that judgment?—A. I don't remember; but it is over \$20,000 I should think.

Q. Over \$20,000?—A. Yes, I should think so.

Q. Who received and distributed the money that was obtained from this award?—A. I think it was done by the company.

Q. I am talking about the individuals; what man received and distributed this money that came from this award?—A. I forget, sir.

Q. Who paid the money to you that you got, the \$1,600, or whatever sum it was?—A. I think Mr. Ely paid it to me.

Q. This gentleman here?—A. Yes, sir; I think Mr. Gibbs was the president of the company at the time, although, as I say, I don't recollect. I was away.

Q. Is Mr. Ely the general counsel of the company?—**A.** He was Britton and Ely were the original counsel of the company.

Q. Are they now?—**A.** After Mr. Britton died Mr. Ely continued, yes, sir.

Q. He is now the general counsel of the company?—**A.** I don't know. As I say, I have nothing whatever to do, or have had for many years, with the company.

Q. Well, did Mr. Ely pay you this money?—**A.** I think, as secretary; may be as secretary and treasurer; I don't remember about that; the two offices may be combined in one; I don't know about that; but I think the check was given as secretary and treasurer.

Q. By Mr. Ely?—**A.** I think so, sir, or it may have been by Mr. Gibbs; it may have been the president. I don't recollect.

Q. Are you in the habit of conducting the important business you are connected with, broker and banker and manager of the La Abra Mining Company, in this loose way, keeping no memorandum, that you can not understand any transaction you have connection with?—**A.** My connection with that business ceased in 1870.

Q. But you have been receiving moneys since that?—**A.** Well, that is, I say, I contributed.

Q. And I ask you how much you got?—**A.** I don't remember; I have told as near as I can recollect from memory. These things have long since passed.

Q. Well, not very long; you have been getting money on this claim?—**A.** For thirty years I have had little or nothing to do with book-keeping. My brokerage and banking business in New York I was out of in 1870. I have had nothing to do with that since. For one or two years I was doing nothing; at least I was out of active business, and afterwards I returned to my old business, which was tobacco, in company with my son, and he conducts that business. Since I quit he conducts it himself. I have been a farmer for eight years and I have had little to do with money matters.

Q. Did you have anything to do with making up and presenting this claim against the Government of Mexico?—**A.** Nothing whatever.

Q. Did you know of it?—**A.** I knew there was a claim being prosecuted, but I never saw the testimony; never had anything to do with it.

Q. Did you know who was the agent of the company to make the claim to present it?—**A.** I knew that Colonel Adams had been employed by the company to get the testimony and to prosecute it before the Mixed Commission, or whatever it was called.

Q. Did you write any letter of advice to your agent in Mexico about preparing or making up the accounts out there?—**A.** I had no agent in Mexico.

Q. Well, the agent of the company?—**A.** There was no agent of the company.

Q. Superintendent of the mines?—**A.** There was no superintendent there at that time.

Q. Well, what was he?—**A.** I do not understand.

Q. I am talking about the man in Mexico who controlled the operations of this business in Mexico?—**A.** Well, after Mr. Exall—

Q. Now, did you write a letter to any such person in Mexico as Exall, Bartholow, De Lagnel, Granger, or any other person; did you write a letter to any person out there requesting or suggesting that the accounts of the company should be made up?—**A.** I have no recollection of such.

Q. You have not?—**A.** No.

Q. Have you read the letters here; all of them?—**A.** I think so.

Q. Do you find no suggestion of that kind in your letters?—A. I wrote Mr. De Lagnel to make up the account.

Q. No, but after that?—A. I may have written to Mr. Exall to do so.

Q. Towards the close of the business operations out there?—A. Perhaps so; I know of no other letters except what are here; there may have been other letters that I don't know about.

Q. If you wrote such a letter as that to Exall what was your purpose in doing so?—A. Which?

Q. In making that request of him to make up the account of the company to see how you stood.—A. Well, we wanted to have reports made of the company; we ought really to have had monthly reports, as I requested in my letters, which I never got.

Q. You had no other purpose than that in it?—A. I don't know that I did; I don't recollect about that. It was very natural, I suppose, that the company would like to have monthly reports of ores, etc.

Q. But it seems, according to your correspondence here, that it was months you did not ask for anything of the sort?—A. Well, this business was not my regular business at all. It was a matter that—

Q. It was very important business, was it not?—A. Well, it was an important business to some extent, yes, for me. I unfortunately lost money in it.

Q. Now I will get you back to that judgment again. Do you know of a dollar of money that was credited upon a claim any of these stockholders had against the company in payment of any part of the award made by the commissioner in this case?—A. Not to my knowledge.

Q. All went to the prosecution?—A. All went to the expenses of the prosecution I presume; I don't know anything about it. It never came to any of us that I ever knew of.

By Senator BROWN:

Q. Do you mean the prosecution of the claim before the International Commission?—A. Yes, sir.

Q. Such as the lawyer's fees, testimony of witnesses, etc.; was that the object?—A. I presume that was the object. I don't know all the *modus operandi* about it.

By the CHAIRMAN:

Q. Did any of that money go to the payment of expenses since the award was made?—A. Not to my knowledge. I am trying to make you understand I knew nothing about the affairs of the company since about 1876, when I went to Louisville to live.

Q. Have you ever transferred or assigned any interest in that judgment, or in your part of the claim against Mexico, to any other person?—A. Not to my knowledge; I have no recollection of having done so.

Q. You are still the owner of it; if the money is due it is due to you, is it?—A. It is due to me.

Q. And only to you; not to any other third person?—A. There is no other third person that I know of or ever heard of.

Q. You don't remember, then, to have made any assignment or agreement pledging this fund to anybody?—A. My proportion?

Q. Yes, your proportion.—A. You mean—

Q. I am talking about the amount due you on that judgment, or your interest in the award, whatever it is.—A. By me transferred to anybody?

Q. You.—A. Never anybody that I know of.

Q. Now, how much money is coming to you from this award, grant

ing that the amount that is in the Treasury of the United States, or rather in the hands of the Department of State, is to be paid to the La Abra Silver Mining Company?—A. I suppose first of all there should be—

Q. I just ask how much?—A. I can not tell you. I was going to say—

Q. Well, about how much?—A. Well, it was first the judgment, and, secondly, what I have paid out for the company; my proportion of what I paid Mr. Exall; the balance of his salary.

Q. Anything else?—A. I don't remember anything else; there may be some other things, and then the balance of what I contributed to the fund for obtaining testimony to prosecute the suit; that is all I recollect of.

Q. Now, how much money out of this award is coming to you? How much do you claim out of it; just name the sum?—A. I am unable to name the sum. I will say that nothing has ever been paid me on money advanced to the company, nor has anything ever been paid me on account of my stock in the company. So far as, individually, I am concerned, I have received nothing except the sum that I stated, which was returned to me, being a part of the contribution for expenses of the prosecution of this claim against Mexico.

Q. Speaking of your stock, do you mean to include anything except the money that was paid up to the company?—A. No, sir; all the stock I ever had was paid up.

Q. And so was everybody else's?—A. Everybody else.

Q. There is no unpaid stock now in this concern?—A. No unpaid stock at all.

By Senator DOLPH:

Q. Was there any issued after Mr. Exall was employed as superintendent?—A. Not to my knowledge. I do not know. I do not think there was.

Q. Are you still the owner of all the stock you originally subscribed for?—A. I am. I think I assigned one share to my son when I went to Louisville to live and stay there. I do not know but he was for a time elected in my place; that is according to my recollection.

By the CHAIRMAN:

Q. Elected as a director?—A. I think he was.

Q. You assigned a share of stock to him in order to qualify him?—A. I think that was the reason; I think that was the only one.

Q. Now suppose that out of this award there is quite a large amount of profit over and above all there is due you including the interest, do you claim that also?—A. I do not claim anything but what I have expended. If I ever get that I shall be happy.

Q. Your expenditures with the interest on the moneys; that includes your subscription to stock and all of the expenditures you made since?—A. Yes, sir; I would not claim anything else.

Q. That is as far as your claim extends?—A. All I want.

Q. Any profit over and above that you do not claim?—A. I do not claim it.

Q. But you don't know whether there is any?—A. Which?

Q. Any profit over and above the expenditures.—A. I don't think there is.

Mr. STAPLES. What does the chairman mean by profit?

The CHAIRMAN. I mean the amount of this award when paid by

Mexico. Say it is \$250,000 or \$300,000 in excess of the complaint, with legal interest, made by the company. I call that profit.

By Mr. DOLPH :

Q. Do you know whether any other of the stockholders has parted with his stock or not ?—A. I do not think so ; I don't know.

Q. Mr. Adams has been referred to. Was there some compensation agreed to be paid to him in connection with this suit ?—A. I think so.

Q. How was that to be paid ; in money out of the award or in stock of the company ?—A. In money out of the award, as I understood.

By the CHAIRMAN :

Q. Where is Mr. Adams ?—A. I do not know. I have not seen him for ten years.

Mr. McDONALD. He is dead. Nearly everybody connected with this case is dead.

By the CHAIRMAN :

Q. Mr. Garth, when did the operations of that company cease at Tayoltita ?—A. I do not recollect the time, but I suppose, so far as our company was concerned, at the time Mr. Exall left the country.

Q. After Mr. Exall left did you appoint any other agent to conduct the business ?—A. Not to my knowledge.

Q. Took no further interest in it at all ?—A. No ; it just dropped out in a state of desuetude.

Q. Innocuous desuetude ?—A. Innocuous desuetude, and it just remained so.

Q. Now what particular fact was it that caused that company to stop ?—Well, after Mr. Exall came back and represented that it was dangerous for him to remain there, that he would have been imprisoned, it was thought there was no use to attempt, at that time, to do anything.

Q. Now, did your company stop because Mr. Exall came and reported he had been imprisoned ; was that the particular fact that stopped your company ?—A. That was the particular fact. There was no effort made then to revive the company at all. It just remained, as I say, in a state of desuetude.

Q. Did you hold a stockholders' meeting on that report ?—A. I think so.

Q. Did you resolve to abandon it ?—A. I do not remember that there were any particular resolutions resolving to abandon it. If there were I do not now recollect them.

Q. Now you swear, therefore, that the particular fact upon which that company stopped work there was the allegation of Exall that he had been imprisoned ?—A. Well, the statement of Exall that he had been annoyed, worried, and imprisoned, and it was no longer safe. That is the report he made to me and to others concerned, and the thing just stopped.

Q. Well, do you swear now that that was the particular fact that stopped the operations of that company in Mexico ?—A. That was at the time—

Q. No, I am not talking about that time, I am talking about any time ; was that the fact ?—A. That was the result.

Q. Was that the fact upon which you elected to stop operations in Mexico ?—A. That was the fact.

Q. Was that the only fact ?—A. Well that was the fact so far as concerned the company ; yes, sir.

Q. Now was there no other fact that caused you to stop operations in Mexico?—**A.** Well, I think not.

Q. No other fact?—**A.** There was other—

Mr. SHELLABARGER. What fact do you allude to?

The CHAIRMAN. The fact of Mr. Exall appearing in New York and making allegations that he had been imprisoned.

Mr. SHELLABARGER. He added a good deal beyond that.

By the CHAIRMAN:

Q. Well, I am talking about Exall's representations. Now, if there was any fact that caused you to stop operations in Mexico besides the statement made by Exall that he had been imprisoned in Mexico, state what it was. I think that is the proper form of question and wish you would answer it.—**A.** Mr. Exall made his report, stated the fact he had been imprisoned and annoyed and worried by the authorities there, and it was not safe for him to be there. In addition to that the general opinion gathered from newspapers and other sources was such as to confirm his statements. Anybody familiar with the general results of the newspapers of the day will see cases in which that hostility of the Mexicans to the Gringos, as they were called, made it impracticable to conduct affairs with comfort or any hope of profit.

Q. So Mr. Exall made a report when he got back?—**A.** I think he did.

Q. Do you know whether he did?—**A.** I know that he did. Whether it was by verbal or written statement I have now no particular recollection. It is possible he made a written statement, but I have now no recollection of that.

Q. Did that report in any wise conflict with the statement that he had made in his letter to you in regard to the conduct of that business and its success or want of success?—**A.** I have given you about the substance of his report that I now recollect.

Q. Was that all he said about the business out there, what you have stated here?—**A.** He stated, as I have said, that he was compelled to leave the country.

Q. What you have stated here is what he stated in regard to the business to you when he got there to New York?—**A.** Well, there may have been other things stated, but I have no particular recollection of them in detail.

Q. You remember that but do not now remember anything else that he stated?—**A.** I remember that.

Q. Well, do you not remember any other statements he made besides this?—**A.** I don't recall them; no.

Q. You do not?—**A.** No.

Q. Any particulars of the statement he made about the business except just what you have put on that record?—**A.** He may have made other statements. He may have made a written statement; I do not recollect.

Q. As I understand you, the statement just made and put on the record is all the statement of Exall that you can recollect?—**A.** I do not remember any other; no, sir. He said at that time—

Q. Any other cause—

Mr. STAPLES. He started to give his reason a moment ago and was interrupted. He said because and he stopped. I think he has the right to give the reason.

The CHAIRMAN. I am trying, Mr. Staples, to examine this witness fairly with a view to getting the truth. I am not trying to interrupt

him. I desire to put upon this record every word he has got to state and let him have a full and fair opportunity to do so.

Mr. STAPLES. I do not mean to intimate there is any unfairness in the examination, but a moment ago when he was interrupted he endeavored to give the reasons.

By the CHAIRMAN:

Q. Well, with a view to the objections of Mr. Staples, I will ask you to state fully and freely all you recollect that Exall said to you on the occasion of his reporting, as you have stated, the reasons for his leaving Mexico and the condition of the company at their works. Now proceed.—A. My recollection of the matter is that Mr. Exall made either a written or verbal report—I do not remember about that—of the troubles that he had undergone there in this matter of conducting the business, interruptions, etc., and he very likely gave some—

Q. I do not want you to guess at anything. If you please just state what you are willing to swear to.—A. He gave some statement of the condition of the mines and of the business when he left there. I think he did. I do not remember the particulars, but I think it is very likely that he did. I do not remember the terms or whether this thing was in writing or whether it was in—

Q. Well, you understand, certainly, the difference between swearing to a guess and swearing to a fact. You say very likely he did this or very likely he did that.—A. Well, I can not recollect what Mr. Exall said; the words he said there. I think he gave a history, or rather some account of his operations as he left them there. I think it is very likely he did, but I do not remember.

Q. Have you completed your answer to that question?—A. I do not remember the particulars of it.

Q. Have you completed your answer to that question?—A. I believe—

Q. Have you gone as far as you can go in answering?—A. I think I did go as far as I could recollect.

Q. You have gone, then, as far as you can remember?—A. As far as I recollect. I stated that he no doubt gave an account of the condition of affairs when he left there; that is, the affairs of the company when he left there.

Q. Is that as far as you can go in answering that question?—A. I believe so.

Mr. SHELLABARGER. The question relates to the reasons he gave for leaving.

The WITNESS. That was the reason he gave for leaving.

By Mr. SHELLABARGER:

Q. What?—A. The fact that he had been annoyed and worried, that was the reason he gave for leaving. That was the chief fact in the statement he made to us.

By the CHAIRMAN:

Q. That was the chief fact, you say? Now, what other facts were there besides this chief fact?—A. As I just now tried to say, he gave. Probably there was some difficulty in the working of the apparatus or ores or something of that sort.

Q. Did he say anything to you on that occasion about the want of money to pay the hands?—A. I do not remember that he did.

Q. Did he say anything about the poverty of the ores, that they would not pay?—A. I do not remember that he did.

Q. Did he ask you why you had not furnished him money at his request to go on with the work?—A. I do not remember that he did. I had frequently told him in my letters that he need not expect it.

Q. I do not care anything about that. I want to know what occurred at that time. Did he make any allusion at all to the impoverished condition of the company out there for want of money to carry on the operations of mining?—A. I think very possibly.

Q. What do you say about that?—A. I do not remember the particulars.

Q. Well, in a general way, what did he say about it?—A. I do not know. In a general way he, no doubt, stated the difficulties of beneficiating the ores and the difficulty of getting out rich ores sufficient to repay the advances that I had made, and others had made, to the company.

Q. Did he say anything about the current expenses; getting money enough out of ores to pay the current expenses?—A. I do not remember that he did.

Q. You do not?—A. No. When I asked him about——

Q. What are you going to say?—A. I say when I asked him about my hope to have been reimbursed for the funds he was unable to do it, he said.

Q. Did you gather from him that he had means enough to have carried on the operations of mining there at the time he left?—A. I do not remember, sir, that we gathered that information.

Q. Well, did you gather from him that he did not have means enough to carry on the operations of mining?—A. I do not think we did.

Q. Gather that from him?—A. I do not think we did.

Q. Were you then of opinion that the mine was yielding enough money to carry it on?—A. I believed that if the ores had been properly——

Q. No, no; that is no answer to my question. Did you believe the mines were yielding enough money to carry on the current operations?—A. I do not know about that, Senator; I do not know that.

Q. Did you believe at that time that the mine was yielding enough money to carry on its current operations?—A. Current operations?

Q. Yes.—A. I suppose it would carry on operations to a limited extent.

Q. How limited?—A. About enough to preserve its property, its title, etc.

Q. How many hands did it require to do that?—A. I do not know; not many though.

Q. About how many?—A. I can not tell. I have no experience in the matter at all.

Q. I understand you have no experience. What is your impression, gathered from Mr. Exall and the agents of this company out there, of the number of men necessary to be kept in operation in order to retain the denunciation of title?—A. Very few, I think.

Q. How many?—A. I can not tell.

Q. About how many?—A. It may be half a dozen, it may be more. I don't know; that is a matter that I have no experience in.

By Senator BROWN:

Q. Did you understand the business of your company was in any way seriously interrupted by the superintendent being imprisoned, and not in a condition to attend to it?—A. That is what I understand.

By the CHAIRMAN:

Q. Now I will get at that. I understand you, now, to say that half a dozen hands, according to your impression, was the number that would be necessary to keep the mines so far in operation that you could retain your title or denunciation under the Mexican laws?—A. That is a matter of which I have no knowledge whatever, a mere guess.

Q. That is your understanding?—A. Yes, I guess so. As I say, I do not know.

Q. Did Exall tell you how many hands he had out there when he left?—A. I do not remember.

Q. Do you know whether he had 50 or 100?—A. I do not. I have no idea that he had 50 or 100.

Q. Did he tell you he had as many as half a dozen?—A. I do not remember about the number stated at all or that there was any number stated.

Q. Well, how many mules did he have?—A. I do not know.

Q. Did he have any?—A. I know nothing about that at all.

Q. How much provisions did he have?—A. I do not know.

Q. How much goods did he have?—A. I do not know.

Q. How much money did he have?—A. I do not know.

Q. Did he inform you?—A. He must have had enough to come back.

Q. Did he inform you how much he had?—A. I don't remember.

Q. Did he inform you, or did you make any inquiry of him about the property on hand, or what work was being done?—A. Well, it was probably done by some of the members of the concern.

Q. Well, was it made in your presence, any inquiry of that kind?—A. I do not remember, sir; I do not recollect.

Q. Do you think you permitted Mr. Exall to come there and make a report in which nothing of this kind was referred to?—A. I do not remember. He was there before the board and they heard his statements.

Q. Now what account did Exall give you of his imprisonment on that occasion; that is, at that time when he made that report?—A. Well, he said he was imprisoned for two weeks and was arrested—

Q. Who by?—A. By the authorities. I do not know by what particular magistrate, if there was any such.

Q. What was he arrested for?—A. He said for the hostility of the people and authorities of the mining district where he was.

Q. What particular accusation was brought against him?—A. I do not remember.

Q. Did he state it?—A. He probably had offended some of them. I do not know how.

Q. Did he state the accusation brought against him?—A. Probably he did.

Q. What was it?—A. I don't remember.

Q. Do you recollect the time he was imprisoned?—A. He told me two weeks, I think, about that time.

Q. Shut up in prison?—A. Yes, sir; I don't know—

Q. Had he ever given you an account by letter of that event?—A. I think not.

Q. Did not give you any account?—A. I think not.

Q. Had written you no letter on that subject?—A. I think not; I do not remember any.

Q. Was any representation made to the Mexican Government, by him or anybody else, of the fact of his having been imprisoned?—A. Not by me or not to my knowledge.

Q. Was this accusation that was brought against him for the violation of any criminal law of Mexico?—**A.** I do not know that it was.

Q. Was it for breach of contract?—**A.** I have no knowledge.

Q. Was it for the non-payment of his hands?—**A.** I do not recollect.

Q. Was it by attachment of his person by a judicial magistrate for debt?—**A.** I do not remember the particulars.

Q. You do not remember the particulars except he told you he was imprisoned for two weeks?—**A.** He told me that he was. I have seen——

Q. Did you send any agent to ascertain the state of the facts?—**A.** Not to my knowledge.

Q. Did anybody else send an agent to ascertain the state of the facts?—**A.** Not to my knowledge.

Q. No step was taken?—Not to my knowledge.

Q. Do you state as a matter of fact that Exall had never made any explanation to you of his imprisonment or alleged imprisonment?—**A.** I do not recollect.

Q. You don't state that he never did?—**A.** I do not recollect of any such statement.

Q. And therefore you do not state that he never did?—**A.** I do not state he never did. I do not recollect it. It does not come to my recollection now.

Q. Have you stated all you know on the subject of Exall's imprisonment?—**A.** All that I recollect now.

Q. Have you read these copies of letters of Exall's in this book, Executive Document 274?—**A.** I think I have read all of them.

Q. You think you have read them all?—**A.** Yes, sir.

Q. Have you examined all these papers?—**A.** Let me see (examining book). I have not read all the letters in this. I think I have just read Exall's, probably.

Q. Exall's letters to you?—**A.** Yes, sir.

Q. Now is there any statement made by Exall in any of these letters that you have read there that he contradicted at the time he made his report to you?

Mr. SHELLABARGER. Now, really Senator, that is a hard question. Could anybody answer that?

Mr. McDONALD. Twenty-one years after it occurred.

Mr. SHELLABARGER. Had you not better point out the particular ones, because it is like putting a book at a man and asking him to fix anything in that.

The CHAIRMAN. He has stated he has read these letters of Exall in this book and he has said he has heard the report of Exall, the particulars of which he is not able to give. I wish to know if in that report he made any statement that conflicted with any statement in the letters.

Senator BROWN. Would it not be better to state the particular letters?

The CHAIRMAN. That might be better if any Senator wants to put it so. I put it this way.

The WITNESS. What is the question?

By the CHAIRMAN:

Q. In that report that Exall made to you, that you have been testifying about, did he state any fact that contradicted any statement in the letters that he wrote to you?—**A.** That I received?

Q. Any of these letters that you see there before you that purport to be written by him to you?—**A.** I observe here several letters which appear to be written by Mr. Exall, but which I have no recollection of receiving.

Q. Did he make any statement in that report that contradicted any statement in these letters of Exall's which purport to be written to you?—A. I do not know. That purport to be written to me?

Q. Yes; those letters before you.

Mr. SHELLABARGER. You have a right now to take your time and read the letters clear through.

The CHAIRMAN. Very well, the committee can wait.

By Mr. BROWN :

Q. You state you have read them. Is your memory retentive enough to remember everything in them?—A. No; I can not remember all these; a lawyer might do it, or a man accustomed to these things; but as a farmer, who has had no knowledge of these things for twenty years, I could not expect to; at least I am not able to go into the particulars of them.

The CHAIRMAN. You decline the effort, then, do you, upon the advice of counsel?

Mr. BROWN. No, I would not decline the effort. I would take time.

The WITNESS. (After examining.) I will state this, that there are statements made in some of these letters here that contradict, or are in opposition to, his report to me, but I have no recollection of having received these letters that were written contradictory to that report

By Senator DOLPH :

Q. Now I understood you, in testifying to these letters, and you may state whether that is true or not, that you could not recollect those letters you received, but you acknowledged those, the dates of which had been referred to in the letters to Exall?—A. Yes, sir.

Q. And that is as far as you have gone?—A. Yes, sir.

Q. But do you not recollect any of them from recollection?—A. I do not recollect all of them from recollection. There are some of these things that are pointed out; there are some clauses in here that I recollect, the fact that he sent the silver.

By the CHAIRMAN :

Q. Now, if I understand you, you have stated that there are some statements in these letters that lie before you that are in conflict with the statements that Exall made to you in the report of which you have been speaking?—A. Either verbal or written report.

Q. Well, the report?—A. Yes, sir.

Q. There are some statements that are in conflict with those statements? Now point them out. —A. I observe in a letter——

Q. Give the date of it, please?—A. "Hacienda La Abra, July 13, 1867." In the latter part of that letter he says:

The rainy season has set in, although a very mild one so far; we had no rain of consequence until 3d or 4th of this month; the river is just high enough to notice it. Our dam holds good yet, but much of a rise in the river will wash it away. The ditch at the upper end has been for some days overflowing; I fear before the season is through that it will be nearly destroyed, or at least rendered useless, until heavy repairs are made. It is a poor piece of work.

The officials are getting daily more troublesome; their demands are foolish and unjust, but we have to do the best we can with them and take things as quietly as possible.

In a subsequent letter to that——

Q. Let me ask you about that. Did he contradict that statement in any way in the report he made to you?—A. No, but I am making a statement now; I have not done my answer.

Q. Go on.—**A.** You will find in a letter dated October 6, at Mazatlan, he says:

You ask for boundaries of mines, hacienda, etc. On this point I can give you no information, as these matters are, of course, to be found in the original titles, and I have no papers in reference to it. Recently the Government has ordered that all holders and workers of mines must present to the authorities the title deeds of said mines. The prefect in San Dimas sent for the titles of the La Abra Co.'s mines. I informed him that they were in New Y. He gave me four months to produce them. One month of the time has passed. So you will please send immediately all the titles to the mines, or certified copies of them. They must be here in the specified time. By last steamer I sent you full statement of business of hacienda; the runnings, returns, and expenses of the mill, % of ores, etc. I neglected to add 40 tons of tierras, which were run through and have been in statement sent, but was overlooked. I am sorry not to be able to send you statements of the months since. On my return from Durango I stopped at the hacienda so short a time before starting for this point that it was impossible for me to make it up in time for this mail.

By next steamer will send you full statements of past months. The returns from Durango were small. I turned it over to E. P. & Co., as I was owing them. There is no difficulties about authorities, boundaries, or anything else concerning the mines and hacienda, provided there is money in hand, and money must be sent. I hope I have urged this point sufficiently so that you may see fit to send me something to hold the mines.

I do not recollect of receiving that letter because it is likely that if I had the papers would have been sent to him. The fact that in the letter just previous he has said he was troubled with the officials, that seems to be a kind of discrepancy. I do not recollect receiving that letter.

Q. Well, do you recollect receiving one before that in which he said there was trouble with the officials?—**A.** Yes, I think that is acknowledged.

Q. Well, did you not acknowledge the last one also, October 6?—**A.** I do not know.

Mr. McDONALD. There is no letter of Garth's put in evidence later than October 10.

The CHAIRMAN. The letter I refer to is the letter which he wrote, in which he said "the officials are getting more troublesome;" that is Sunday, the 14th day of July.

Mr. McDONALD. I refer to the letters of Garth that have been put in evidence. The latest one put in evidence is October 10. If there are any others we have not seen them; if the attorneys of Mexico have them, we would like to have them.

By the CHAIRMAN:

Q. Proceed to point out any other matters that are stated in the report that Exall made to you that is in conflict with any statement that is contained in those letters that are before you.—**A.** I think, sir, that the last letter I got from Mr. Exall was dated August. I do not recollect the receipt of later advices from him until he came to New York.

Q. Now is that an answer to the question I have just asked you?—**A.** What was that question?

Q. Well, it is a very plain one. The secretary will read it to you.

The stenographer read the question as follows:

Proceed to point out any other matters that are stated in the report that Exall made to you that is in conflict with any statement that is contained in those letters that are before you.

The WITNESS. Any other things in these letters?

The CHAIRMAN. Well, the question is a very plain one. Read it again.

The stenographer read the question as follows:

Proceed to point out any other matters that are stated in the report that Exall made to you that is in conflict with any statement that is contained in those letters that are before you.

The WITNESS. (After examination-) In these letters of October 6 and subsequently, which are claimed to be written by Mr. Exall, he goes on to say that he is greatly embarrassed for money, and would have to obtain money if it was not sent. I do not recollect of receiving these letters. I do not think I did, and his statements to me were not to the extent that he says here. He may have been troubled, the ores turning out so badly as they did, but they were not anything like these letters. I am satisfied of that. These letters, as I say, I have no recollection of receiving, of October 6 and of November 18, 1867, and of January 24, 1868.

By Senator DOLPH:

Q. What did you do with the letters you received from Mr. Exall?—A. They were handed to the secretary and I suppose put with the papers.

Q. And should be with the papers of the company at New York wherever they are?—A. They would be if they are in existence; ought to be I should think if they had been taken care of. But I was never the secretary of the company and had nothing to do with them.

By the CHAIRMAN:

Q. You say the statements he made to you were entirely unlike the statements contained in those letters just referred to?—A. No, they did not go to the same extent of those letters. They are very extreme.

Q. That is the statements he made to you at the time he reported from Mexico?—A. Yes; that is to say his report was—

Q. Then he made a statement to you of the condition of the ores and the company at the time he reported?—A. He must have made some statement, the particulars of which I do not now recollect.

Q. How do you know that they did not go to the same extent his letters went, unless you can recollect them?—A. I know they did not because they would have made a very decided impression upon my mind.

Q. Well, then, I will ask you about a letter that you wrote to him. Or, first, before I do that, I wish to ask you at what time was it Exall said he had been imprisoned?—A. I do not recollect the date, but it was shortly before he left the country.

Q. How shortly?—A. I do not remember the time precisely, but it was not long before.

Q. Well, about how long?—A. I could not say.

Q. Was it a month or two months?—A. It may be. It may have been immediately after he claimed to have been released. I do not remember about that—how long—whether he remained any considerable time afterwards or not.

Q. All that you can recollect about it, then, is that he was imprisoned by somebody for a period of two weeks as he stated?—A. As he stated, about that time, the particulars of which I do not know, if I ever knew.

By Senator BROWN:

Q. Did he say by somebody or by the Mexican authorities?—A. By the authorities there.

By the CHAIRMAN:

Q. I understand you to say that you do not know whether it was by

civil authorities or military authorities?—A. By the authorities he said. I do not know whether they were civil or military or political.

Q. Nor for what offense?—A. Nor for what offense.

Q. Nor for what cause?—A. Nor for what cause, if there was any of offense.

Q. Now I notice a letter here that you wrote to him on the 10th day of October, 1867, page 92. How long was it after that letter was written, October 10, 1867, that Exall appeared in New York?—A. It was the next spring, I think, but the date of his appearance in New York I could not tell you, the exact date; but he came there in the spring or early summer, I think. I do not know. I think probably that is the last letter I wrote to Mr. Exall.

Q. October 10?—A. Yes; at least it is printed here, and I have no recollection of having written him.

Q. In that letter you say:

We are deeply pained to find that you are not well, and that, and are still without favorable results in the enterprise from which we all had such high hopes of success.

Do you remember stating that to him?—A. I see it stated here.

Q. Do you remember it?—A. Yes, sir; I suppose I said it.

Q. (Reading:)

I am very sorry to say that it is not possible to aid you from here, and that you must rely entirely upon the resources of the mines and mill to keep you going and to relieve you of debts heretofore contracted.

Do you remember stating that to him?—A. Yes, sir.

Q. Then that truly represents the condition of your company in Mexico at that time, the 10th of October?—A. I suppose so, as far as I understood.

Q. According to your information?—A. Yes, sir.

Q. It certainly represents truly the fact that you did not intend to furnish money?—A. I tried to make them understand all that from the beginning.

Q. (Reading:)

It is not possible for us to direct any particular course for you, but only to urge you to try and work along as well as you can, cutting down expenses and avoid embarrassing yourself with debts.

A. Yes, sir; that is the tenor of it.

Q. (Reading:)

The Bank of California has again sent Col. D. Lagnel's draft here for collection, but it was not possible to pay same, and it will have to return to Mexico, and we do hope you will be able to make some satisfactory arrangement to pay it.

A. Yes, sir.

Q. Now, after writing him that letter, did you still expect that the mine would be able to maintain itself without any sustenance from home?—A. I still hoped so.

Q. Did you think so?—A. I believed so.

Q. You believed it would?—A. I believed, under proper management, it would.

Q. Well, under the management you had there?—A. Yes, I believed so. I hoped so.

Q. You believed so; that it would work itself out?—A. Yes, sir.

Q. Had not Exall been writing to you for money and informed you that he could not get along without it?—A. Well, the letter shows he tried to negotiate a draft for \$3,000 there.

Q. And failed to do it?—A. And failed to do it. It was contrary to my instructions to him when he started in to draw.

Q. Your purpose was, then, of course, unless the mine was self-sustaining, you would not try to sustain it?—A. Unless the mine was self-sustaining so far as I was concerned I was not going to put my hand in my pocket and pay drafts.

Q. Well, as to the company?—A. Well, I do not speak for anybody but myself.

Q. What was the determination of the company about it?—A. That was my determination.

Q. Was it the determination of the company about it?—A. I can not say what the determination was of anybody but myself.

Q. But you were the manager of the corporation. Was it the determination of the corporation?—A. The other gentlemen were amply able to furnish any amount of money they chose to do, but for myself I had paid all the money I intended to.

Q. Do you know what the action of the corporation was?—A. After Exall came away the thing was just dropped, and it was supposed the thing was then done. I will read further.

Q. You may read all day if you choose. I have read all of that letter of the 10th of October.

By Senator DOLPH:

Q. That letter acknowledges the letter of the 5th of August?—A. Yes; as I told him all the time. (Witness reads:)

We can not give you any aid from here. I would advise you to try and beneficate what ore you have on hand, if it will pay to do so, and to cut down expenses to the lowest point, merely taking care of the interest and property of the company as best you can until further instructed, and in meantime give us complete account of expenses, debts, and full balance-sheet of your books to latest period, and also give us your opinion in full of the prospects of the mines, values of the ores, cost of raising and working, with yield of same as requested in former letters. From the reports we get in the papers, we find that Americans and all foreigners will not be protected in their persons and rights in that country, and that we may have to abandon our property there. If so you must take all necessary and legal measures, by protest and otherwise, to secure our claim against the Government. Mr. Rice no doubt will be of essential service to you in any measure of this sort, and we would advise you to consult freely with him. The directors of our company are trying to reorganize and to raise money to pay off the debts, and to prosecute the work anew if possible, but I am constrained to say with but little hope of success. Meantime, you must get out all the means you can from the ores, cut down all expenses, keep out of debt, and do what you can to protect and preserve the property of the company.

Q. Mr. Garth, do you know anything about an attempt to sell this property after Mr. Exall returned to New York, some negotiations on that subject?—A. There was no attempt on our part. A man I think came to me, or some one of the directors, several times, talked about buying the property, but there was nothing done. There was no negotiation. We found out that he was of no account, and it was not worth while to talk with him. There was nothing ever done.

By the CHAIRMAN:

Q. Now, it does not appear that you wrote to Mr. Exall between the 10th of August, 1867, and the 10th of October. Have you any recollection of writing to him between that interval of time?—A. I have not. I do not know anything about that.

Q. You have no recollection of keeping up a correspondence with him during that interval of time?—A. It may have been that I wrote by the steamer, or I may have written him and it did not reach him. I commonly wrote by the steamer.

Q. Do you remember writing to him between those times?—A. I do not. I may have done so. I do not recollect.

Q. Well, you notified him that you had been informed through the newspapers that there was likely to be Mexican interference out there with the mining operations. You let the matter rest until the 10th of October before you wrote any more?—**A.** Was not that the 10th day of October that I read?

Q. No, sir; that was the 10th day of August.

Mr. McDONALD. Mr. Chairman, he has not said he did not write between those periods. We would like to know, in the first place, whether all the letters that the Mexican authorities have got have been produced.

The WITNESS. I wrote a number of letters to Mr. Bartholow and Mr. De Lagnel, of which I do not see copies here. I only see copies of some, of all that I wrote to Exall.

By the **CHAIRMAN**:

Q. Well, I understand you do not remember to have written to Exall between the 10th of August and the 10th of October?—**A.** It don't occur to me now. If it is here it is true.

Q. Did you keep copies of the letters you wrote to him?—**A.** I think so. There might have been some private letters or something of that sort written to him or Mr. De Lagnel.

Q. No, letters relating to business?—**A.** I think so.

Q. Press copies?—**A.** I think so.

Q. Did you feel any uneasiness about your property out there between the 10th of August and the 10th of October?—**A.** Oh, I had other things to attend to; and, my dear sir, this was comparatively a small matter.

Q. It was?—**A.** Yes.

Q. So you did not concern yourself about this little affair in Mexico?—**A.** I did not worry myself a great deal about it.

Q. So you made no further inquiry as to whether the Mexicans were taking steps to drive out the company or anything of that sort?—**A.** No; I did not send any messenger or anything of that sort. Did not bother with it.

Q. Why did you advise him that he "must take all necessary and legal measures, by protest or otherwise, to secure our claim against the Government?"—**A.** Well, I suppose if he was driven out from there that there might be some time that there would be some treaty or negotiation by which we probably might recover damages. "It was in advance of this Mixed Commission or whatever you call it. What do you term this Mexican and American Commission?"

Q. Call it a Mixed Commission.—**A.** Mixed Commission. I did not know that it was in existence at that time. I do not think it was, probably. If it was, it was not to my knowledge. I thought there might be a time in the future when something of that sort might be done, and it was in the matter, probably, of precaution or something of that sort. That is my present impression about it.

Q. You did not know then that there was any negotiation going on for a Mixed Commission to try claims between the people of the United States and the people of Mexico, or the Government of the United States and the Government of Mexico?—**A.** I do not think there was. If there was a commission already in existence or proposed it was not known to me. If it was I do not now recollect it. It may have been in existence or it may not; I do not know.

Q. It may have been immediately anticipated or may not?—**A.** It may have been, I do not remember.

By Senator BROWN:

Q. Well, if I understand your position, it is that if the Mexican Government failed to protect your property you thought you would have a just claim against it for indemnity, and you desired to have the evidence perpetuated?—A. That is the view.

By the CHAIRMAN:

Q. Now, if you had never heard of the imprisonment of your agent, Mr. Exall, before he made that report to you in New York, what reason had you for supposing that the Mexican Government had any hostility towards your company?—A. Well, there was talk with Mr. Bartholow and with Hardy, who had come back from there, and other people who had been employed at the mine had come back from there.

Q. What people?—A. Why, Dr. Hardy, I. V. Hardy, and other people that I do not recollect. I think this man Cullins came there once to New York, one of the miners, and from various sources it was commonly understood that life and property were not safe in that part of Mexico.

Q. Not very safe in any part of Mexico, is it?—A. Well I do not know. I never was in any other part of Mexico but that.

Q. Your life was not in danger while you were there, was it?—A. I was not troubled while I was there. It might have been in danger and I not know it. I knew nothing of the language of the country, and I tried to treat everybody civilly and they treated me civilly.

Q. I understood you to have stated that you did not know anything about Exall's imprisonment until he got back?—A. Do not understand me to say that, because I do not recollect that state or condition of things. Mr. Exall may have written me private letters or I may have heard it from other sources there. I do not now recollect it.

Q. Well, I thought you stated you did not know anything about it until Exall got there?—A. Well, he probably more fully stated this matter to me then.

Q. Do you state you did know about it before he got there?—A. No; I do not. I do not state any such condition of things. I say it is possible I may have heard it from the Hardys or Cullins, or somebody else that had been from there, or from some other source; I do not know.

Q. Was this letter of the 10th of August written with reference to the imprisonment of Exall?—A. I do not know that it was or was not. It was in view of the general troubled condition of the country, as I understood it.

Q. What were the "legal or necessary measures" that you thought were necessary to secure your claim against the Government of Mexico?—A. Well, sir, you are too hard for me; I do not know. I supposed he would find out. I do not know; I am no lawyer.

Q. Did you at that time have a claim against Mexico?—A. We had no claim against Mexico; had not formulated any claim against Mexico.

Q. Did you have any right to a claim against Mexico?—A. I don't know.

Q. Did you believe at that time you had a claim against Mexico, August 10, 1867?—A. I do not know. It may have been. It is as I say; he had been driven out of the country. It might have been a cause of complaint or cause of action or cause of damages which that country ought to have been, perhaps, liable for.

Q. Well, had anything occurred within your knowledge or information at that time, August 10, 1867, to convince you that that company

then had a claim against the Government of Mexico?—A. I do not think that this letter says that we had any claim against Mexico.

Q. I did not ask you what the letter says. I asked you had anything occurred?—A. What?

Q. You seem to be persistent in refusing to answer a question?—A. Well, you put a question—

The CHAIRMAN. Read the question again.

The stenographer read the question as follows: Well, had anything occurred within your knowledge or information at that time, August 10, 1867, to convince you that that company then had a claim against the Government of Mexico?

By the CHAIRMAN:

Q. Now answer that.

A. Not further than that in case he was unable to prosecute the business he ought to take some steps to establish the fact, and the time might come when we would have a claim against Mexico for the general interference with the business. Is that the categorical answer you want?

Q. You are on oath and I am not. You can answer to your own satisfaction.—A. I mean is that in response to your question?

Q. I am not fixing your answers. I want the truth of you. The secretary will read the question again.

The stenographer read the question as follows: Well, had anything occurred within your knowledge or information at that time, August 10, 1867, to convince you that that company then had a claim against the Government of Mexico?—A. Not further than the general apprehensions of trouble occurring there to our employés.

By the CHAIRMAN:

Q. Then, if I understand you, nothing had occurred, but you had apprehensions that something might occur?—A. Yes; that was the idea.

Q. To create a claim against Mexico?—A. Yes, sir; in case we were driven out, and as this letter says—

Q. Which letter?—A. The latter part of the letter of August 10, 1867. I think that letter would explain at that time my views about it.

Q. That is the same letter from which I am reading?—A. Yes; I do not know whether you are reading from that letter—New York, August 10.

Q. Yes. Point out the paragraph where it speaks of being driven out of Mexico.—A. (Reading:)

From the reports we get in the papers, we find that Americans and all foreigners will not be protected in their persons and rights in that country, and that we may have to abandon our property there.

Now this thing expresses it as well as I can now. If you ask me if anything had actually occurred there that I knew of there that I would then make a claim against the Government of Mexico, I can answer not to my knowledge.

Q. That is what I have been trying to see, whether you could make that answer or not.—A. Yes, I could answer that.

Q. Well, did you apprehend that something would occur then?—A. Such was the condition of the country in our view, whether that view was correct or not. I did not know but what something might occur at any moment.

Q. Did you apprehend that anything would occur?—A. I did.

Q. You were apprehensive that something would occur to drive you out of the country?—A. Yes, I suppose so.

Q. Some Mexican adventure or some revolution?—A. Something of that sort.

Q. Now, if that is so, why did you state that—

The directors of our company are trying to reorganize and to raise money to pay off the debts, and to prosecute the work anew if possible, but I am constrained to say with but little hope of success?

A. Well, of course, no doubt some effort was made to pay off the debts there and to get new subscriptions, but it was found that owing to this apprehension of trouble and unsettled condition of the country it was impracticable to enlist capital to be invested in that country again. Is that a fair answer?

Q. Don't ask me. Ask your own conscience. I am not your mentor.—A. Well, that is the truth. That is the fact. I try to make it as plain as I can.

Q. Now, notwithstanding your apprehension that the company might be driven out of Mexico by the authorities, you state in this letter that—

The directors of our company are trying to reorganize and to raise money to pay off the debts.

A. Yes, sir.

Q. Were your apprehensions very serious that you would be driven out?—A. You can see what they were.

Q. They were not serious enough to prevent you from attempting to reorganize?—A. No, I may say that.

Q. When you say that you are "constrained to say with but little hope of success," do you refer to the difficulty of raising money?—A. I had reference to the difficulty of raising money under the circumstances.

Q. What circumstances?—A. That is as I tried to state before, in the uncertain political and unsettled condition of Mexico, capital was unwilling to embark in this.

Q. Did you have any difficulty on account of the unfavorable reports that Mr. Exall had been making to you and others of the richness of the mines and the difficulty of working them?—A. That partially was, no doubt, some factor in the difficulty, but aside from that—

Q. Now, was this one of the difficulties?

Mr. SHELLABARGER. He says aside from that.

The WITNESS. Aside from that the feeling in the community of New York was adverse. It was impracticable in that condition of affairs, I know and believe, to make investment anew in Mexico. There was no difficulty, in so far as the ability of the chief interest in this mine, in raising whatever sums of money might be needed. That was not the trouble so much. If, in my belief, the mine and things had been similarly situated in Nevada or California or Oregon, or anywhere within the jurisdiction and protection of the United States, I verily believe that there would have been no difficulty in raising whatever sums of money might have been needed to have developed that property and, in my view, rendering it profitable.

Q. Now, if that is so, what do you do with this observation in your letter:

We observe with deep regret and disappointment that you were making but little progress in beneficiating the ores now on "patio," and that the yield had not improved. This is a severe blow to the enterprise, as we had expected long before this time that you would not only be in position to sustain yourself, but to remit us enough to pay off the large indebtedness here.

A. Yes. I have stated that all the time. We were disappointed in the first place, in the time when the works were completed and we were

disappointed also, seriously disappointed, in the results which had been obtained so far from them.

Q. Yes. Now in obtaining money, Mr. Garth, who were the persons who came in anew or fresh into this concern? You were making honest representation to them of the condition of the mine; you would put in that fact would you not?—A. I have no doubt I would have done so.

Q. Well, would not that have been a sufficient blow to the enterprise to prevent the reorganization upon borrowed capital?—A. I do not know as it would. As I said and as I still maintain, Senator, it was unfortunate that our miners, our men who were sent down there, were not expert metallurgists or miners. I believe in the richness of the ore to-day. I believe that the mines have to-day real intrinsic worth. That is my opinion. Whether it is worth anything or not I do not say.

Q. In a previous letter of yours to him on the 10th day of July, you say this—

You will see, from all my letters, that no further aid can be given you from here, and that you must rely upon the resources you now have, and which, we think, ought to be ample to pay off the debts and to sustain you in current expenses, which you should cut down to the lowest possible point. I can but think that in the vast quantities of ores now on the grounds of the hacienda there must be a considerable amount of rich metal, and which you should beneficiate as soon as possible, taking care not to throw away or waste any that would pay to work. Of course you keep an accurate account of the cost, not only of raising and transporting the ore to the mill, but of the cost of crushing it and converting into coin or bullion; and, as it is a matter of simple calculation, you can soon see if it will pay or if it is a losing business. If it costs more than it comes to, the sooner we find it out the better, and the sooner we stop the better for all parties concerned. I have heretofore called your attention to this point, and wish you to give careful attention to it, and would request that you furnish us such full and detailed statements on this point that we can see for ourselves. Give us the full particulars of expenses, amount of ore raised and its value, and the results after beneficiating, etc. Be careful about leaks and expenses, cut off all that is possible, and watch very closely every department with that view.

Q. Do you remember writing that?—A. Yes, sir.

Q. Now, your mind at that time evidently was not settled upon the proposition that this was going to be a paying business. You say:

If it costs more than it comes to, the sooner we find it out the better, and the sooner we stop the better for all parties concerned.

Was your mind then settled upon the proposition that it was going to be a paying business?—A. There might have been some doubt about it, as it seems to be expressed there.

Q. Yes, very strongly.—A. But not so much on account of my, as I say there, intimating, in that letter. What I wanted him to do was not to just run the ore through the mills, getting nothing from them, because I knew, from what they had written and I understood, valuable ores might be wasted in that way.

Q. Let me ask you, if you please, if the doubts you then expressed and solved by actual working as to the outcome of this investment was due in any sense to Mexican hostilities?—A. I do not know that they were.

Q. That was on the 10th of July, 1867?—A. Yes, sir.

Q. That doubt, then, had reference to the yield of ores and the expense of working?—A. That was what I was calling his attention to.

Q. That is what you meant when you said:

If it costs more than it comes to, the sooner we find it out the better, and the sooner we stop the better for all parties concerned.

A. Yes; I think that was good, sound doctrine.

Q. You had it in your mind, then, to stop unless it was a paying investment?—A. Unless the thing, after full and complete trial, had proved, however, that I was mistaken in the value of the ores.

Q. Now did it after that time, July 10, 1867, turn out that it was a paying investment or would be a paying investment?—A. It did not turn out to be a paying investment, so far as I know. We never received anything from it.

Q. Now, was there any fact that occurred after the 10th day of July, 1867, to remove the doubt you had in your mind on that day as to whether it would be a paying investment?—A. I do not remember that there were particularly favorable advices that would encourage the hope of favorable results.

Q. I will call your attention to another paragraph here:

Don't run into debt or get into difficulty with the authorities, if there are any such things existing, but at the same time be firm in maintaining your rights, and don't submit to imposition except by force, and then make a legal and formal protest as a citizen of the United States and as an American company duly organized and prosecuting a legitimate business under the protection of the law, and our rights will be protected by our Government.

Do you remember stating that?—A. Yes.

Q. Now why do you use the expression, "If there are any such things existing," in the letter of the 10th of July?—A. Because, as I say, from the reports, and I must have had reports from other parties, that there was a likelihood of things of that sort we were liable to at any time.

Q. But you did not know of anything?—A. I did not probably know of anything of that sort. De Lagnel was, I knew, a very firm man; a man of great courage, as well as great prudence, and I cautioned—

Q. This was written to Exall.—A. I know; but I cautioned him as I cautioned De Lagnel to be careful not to do anything that was contrary to law, but at the same time to be firm in the maintenance of his rights and the rights we had there. That was the main idea that I had when I wrote that letter, I suppose.

Q. Then on the 10th of July, 1867, you did not know of any fact relating to the interference of the Mexican authorities with your mining operations in that quarter?—A. I do not remember that I did.

Q. Now, since that time did you acquire a knowledge of any fact, or information either of any fact, showing an interference of the Mexican authorities with your operations there except the statement that Exall made to you?—A. I think I did, and I tried to state to you that some of the hands had returned from there and had said that the condition of the country was very unsettled, and that they were liable to be interfered with; that there was much hostility to Americans generally in the country.

Q. Then I understand you to say that you did not know of any fact?—A. Except as I stated there that these—

Q. I speak of a fact relating to an actual interference of the Mexican authorities with your business, not what might be or might not be.—

A. Oh, if that is it, I do not know that any fact occurred, absolutely occurred, in which there was interference brought to my knowledge at that time. I do not know of any actual occurrence of persecution by the authorities—trouble by the authorities to the company.

Q. Then the only fact that you have been advised of in regard to Mexican interference was that communicated to you by Exall in respect to his imprisonment?—A. I tried to state that all along, for on the return of these parties they were giving me the condition of the country and it caused apprehension of these things.

Q. Well, you know very well I am not asking you about your apprehensions.—A. I know, but I want to explain if I can do so.

Q. Well, you can not explain it by dodging the question?—A. What is the question?

The CHAIRMAN. The secretary will read the question.

The stenographer read the question as follows: "Now, since that time did you acquire a knowledge of any fact or information either of any fact showing an interference of the Mexican authorities with your operations there except the statement that Exall made to you?"

A. I think so. That is the only fact. The only thing existing there at the time. These other things that were occurring there were reports, and people from that section giving me an account of the disturbed state of the country.

Q. Did I understand you to say that you did not see Granger in New York after Exall got there?—A. I do not recollect ever having seen Granger in my life; I do not think I ever have seen him.

Q. Did not Granger bring any suit against this company?—A. He did.

Q. What for?—A. For services claimed to have been rendered.

Q. Did he recover in the suit?—A. I think not.

Q. Was he paid off, compromised with?—A. Not that I know of.

Q. He brought suit in New York, did he?—A. He brought suit in New York.

Q. Was he defeated in that suit?—A. He was.

Q. On what ground?—A. That he was not employed by the company, I think, and that the company did not owe him anything, or something of that sort.

Q. Was the record of that suit in the court of New York?—A. I think so. I believe I was in Louisville at the time.

Q. Before he brought the suit did he appear there and make any demand for the money he claimed to be due him?—A. Not to my knowledge or belief. As I have tried to state, I have never seen Mr. Granger in my life to know him.

Q. What was the agreement between this company and Mr. Adams about the prosecution of the claim?

Mr. McDONALD. Is that material, Mr. Chairman?

The CHAIRMAN. It occurs to me that it is.

Mr. McDONALD. I do not see how it can affect the character of the claim any.

The CHAIRMAN. There is a statement made here in some part of these papers as to the getting of depositions by Mr. Adams in a way that is alleged, at least, not to be proper, and if he had a contingent contract with the company, dependent upon success, that might probably throw some light upon that view of the question.

Mr. McDONALD. I think Mr. Adams filed his claim, the assignment of his interest in the claim, in the State Department. I wish to note an objection to the question.

The CHAIRMAN. The secretary will read the question again.

The stenographer read the question as follows: "What was the agreement between this company and Mr. Adams about the prosecution of the claim?"

A. My recollection is that he was to have a third interest in what was received by the company from the claim.

Q. Who was to pay the expenses of the witnesses?—A. He was to do so.

Q. He was to pay the expenses and get a one-third interest?—A. I think so.

The committee adjourned until 10.30 a. m., October 5, 1888.

SENATE OF THE UNITED STATES,
 COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., October 5, 1888.

The subcommittee met pursuant to adjournment. Present: Senators Morgan (chairman) and Dolph; Hon. Joseph G. McDonald and Hon. Samuel Shellabarger, of counsel for the La Abra Silver Mining Company, and Hon. John W. Foster and Mr. Robert B. Lines, representing the Government of Mexico.

TESTIMONY OF DAVID J. GARTH—Continued.

By the CHAIRMAN:

Q. Mr. Garth, on yesterday you spoke of the advances that were made by the members, or some of them, of this company for expenses in prosecuting the case before the commission?—A. I think I did; yes, sir.

Q. Was that contribution made after you had engaged Mr. Adams to take charge of the matter and prosecute it?—A. That contribution was made at that time; yes, sir.

Q. Can you state the gross amount of it?—A. I don't recollect.

Q. You have stated also, I believe, that you had been refunded as much as \$1,600?—A. I don't recollect the exact amount, but a part of what I contributed for those expenses had been refunded to me.

Q. Do you recollect who refunded that to you; who paid it to you?—A. I don't remember whether it was Mr. Gibbs or Mr. Ely, whether the secretary or president, or whether the check was sent by both of them.

Q. Was Mr. Adams alive at the time?—A. Yes, I think so, but it has been some years ago. I don't know when he died.

Q. He had drawn out his part of the money, had he?—A. I suppose so. I knew nothing about that at all.

Q. You stated yesterday that Mr. Adams was to bear the expense of getting the testimony?—A. I think that was the arrangement. He was to be furnished with some money for expenses, and it was in that view that this contribution was made. It was made before he left.

Q. How much was he to be furnished for expenses?—A. I don't remember now, but I think it was about \$3,000, may be more; it might have been in that neighborhood.

Q. How much of that did you advance?—A. I don't remember. I have been trying to think about it. There were two calls, and I contributed to both of them. I don't think it was more than \$2,000, probably not as much. A great many of the stockholders had moved away; some that were within reach, and it was comparatively few, contributed to the expenses of this thing. Some contributed none, and, as in many cases, the money was raised by a comparatively few parties that were accessible.

Q. Were you present and did you participate in the distribution of the money that was received under this award amongst the different persons who had made advances?—A. I was not.

Q. Not present?—A. I was not.

Q. Do you know whether Adams had any hand in it or not?—A. I do not.

Q. Who made the settlement with Adams?—A. I don't know. As I tried to explain, I had no connection with the company, nor have had for years and years. From about 1874 I was much of the time West, and after 1875 or 1876 I established a branch of my house in Louisville, which kept me most of my time, and in 1877 I removed there tempo-

rarily to establish my son-in-law in business, and remained there with him until 1880, when I went out of business altogether.

Q. Was the second contribution that you were called upon to make made after or before the award made by Sir Edward Thornton?—A. I think it must have been made before.

Q. Both of them were made before?—A. I think so.

Q. Did you ever make any contribution after that time to the expenses of the prosecution of this case.—A. I did not.

Q. Did anybody else within your knowledge?—A. Not within my knowledge.

Q. Or according to your information from the stockholders?—A. I have heard of none.

Q. You do not know of any money that has been paid out by anybody for witnesses or fees of counsel?—A. Not that I know of.

Q. Since the date of the umpire's award?—A. Not to my knowledge.

Q. Had any member of the company informed you that he had paid money for that purpose?—A. I have no such information.

Q. So far as you know, then, all of the prosecution of this claim that has occurred since the date of the umpire's award has been without any compensation to counsel or other persons, agents?—A. So far as I have any knowledge.

Q. Do you know of any assignments that have been made of any part of this award to any person?—A. I know there are assignments, but to whom and the amounts I have no recollection.

Q. Did you know at the time that they were made?—A. Some of them I did, I suppose.

Q. Can you name any of the individuals to whom assignments were made?—A. I do not recall them now. You can perhaps ascertain that from some of the records here. I presume they are of record here, but I do not remember them distinctly enough to say.

Q. Where was the mine located that is called the Guadalupe mine?—A. I never saw it; I never was in it at all; it was on the other side of the mountain; I never was in it or saw it. When Don Juan Castillo sold us the mine he said, "I have got so many feet or shares in this mine which go with this property."

Q. How far away was that from Tayoltita?—A. I should think it was 2 or 3 miles; may be more. As I say, I never was there.

Q. Do you know where the ores were beneficiated that were taken from the Guadalupe mine?—A. There were no workings in that mine when I was there at all; that is, if there were I did not so understand it.

Q. Did your company work in that mine?—A. No sir; not to my knowledge.

Q. What did you give for the stock in that mine which you obtained from Castillo?—A. I do not think there was any specified amount. It simply went in with the purchase from Mr. Castillo, as I always understood it.

Q. Any estimated amount?—A. No particular estimate that I know.

Q. Did you have any ores from that mine?—A. Not to my knowledge; not that I know of. There may have been some, but I have no recollection or knowledge of it.

Q. Did Weidner give you any analysis of the ores in that mine?—A. No, sir; we had no samples.

Q. Have you a recollection that the mine was valued at \$8,000 or \$10,000 in the trade?—A. I do not now recollect; no, sir.

Q. You think there was no value put upon it?—A. I do not remember any distinct value put upon it.

Q. Castillo's interest, then, was bought for a lump sum, \$50,000 for all the mines he had there, Guadalupe and Toyaltita?—A. That was my understanding of it; about so.

Q. How long was it after Mr. Exall got to New York before he was paid his salary?—A. I do not remember. It was some little time, I recollect, before the parties got together to raise the amount which he was paid. It may have been several weeks or it may have been a month or it may have been longer. I think there were some parties, perhaps, out of town. They generally are at that season of the year, and it was some little time before we could get enough. I did not feel like, and was unwilling to go and pay the balance of his wages alone, and it was done by contribution, according to my recollection.

Q. Was there any difficulty in the acknowledgment of his claim?—A. I think there was some abatement of his claim.

Q. On what account?—A. I do not know. It was on account, probably, of the difficulty of raising the money, or something of that sort. There may have been a little sum abated. I do not remember the amount now or from whom it was all collected.

Q. Was the difficulty because he did not serve out his full term of service, a year?—A. No, sir; I do not know what now.

Q. Any point made on him that he had left the mines and had not made a proper disposition of the property out there?—A. No; I do not recollect anything of that sort.

Q. The difficulty, then, appears to be, according to your recollection, simply in the fact that you could not get the money together to pay him?—A. The difficulty was on account of the scattering of the parties around that they did not get the money to pay him promptly. He was not paid promptly, according to my recollection. It was some weeks before the parties were present.

Q. I believe you stated he did not bring any suit for his salary?—A. I think upon reflection that he did threaten to bring suit, and may be some preliminary steps were taken; but as I say, the parties contributed and an amicable settlement was made of the claim.

Q. I want to read you a statement here made by Exall, dated at San Dimas, Durango, January 7, 1868, on pages 85 and 86. I want to read it to you with a view to ask you how far Mr. Exall's representations to you corresponded with that statement in respect of the cause of his imprisonment.—A. Is the letter from him to me?

Q. No; it seems to be a statement made by Exall in a letter addressed to the jefe politico at San Dimas, Durango.

C. JEFE POLITICO, *San Dimas, Durango* :

DEAR SIR: This morning about 11 o'clock Señor D. Nicanor Perez came into the store belonging to the hacienda, looked around, saluted us, and then walked into the storeroom adjoining the store; the time I was behind the counter, and seeing him in there, where no one was ever allowed without permission, I, in as polite Spanish as I was master of, requested him to come out, and after he came out I shut the storeroom door. He then asked me if I thought he was a rogue and wanted to steal. I told him as well as I could, certainly not, and that the reason of my asking him out was that no one was ever allowed in there without permission. He then stated that he was there on official business, and wanted to see Matias (our —) who was at the time working in the storeroom. I immediately called Matias out, and he and the — then went outside of the store. A few minutes afterwards he returned and talked in a very excited manner, feeling himself much insulted. I told him nothing was meant by what I had said, and he left and returned to —.

At about 12.15 o'clock, just as our dinner-bell had rung, a mozo brought an order from the judge, which I inclose. After we had eaten, Mr. Slone went up to see the judge.

He had collected around his house a number of men, and in the house preparations had been made as if resistance was expected and force might be required. After getting into his room, I requested Mr. Slone to ask him, as I was unable to ask him myself, what was the business he wanted to see me on. He replied he had been grossly insulted, and pushed out of the store, when he was on official business. This I of course denied in a most emphatic manner, having acted only as before stated. I then told him that in requesting him to come out of the storeroom I had no intention of insulting him or hurting his feelings, but was simply enforcing the rules of the hacienda in not permitting any one to go in the storeroom without permission. This he would not listen to, and persisted in saying I intended to insult him. I of course did not, and, from my ignorance of the language, could not argue the point. After some time spent in talking to this effect, I asked him if he had gotten through with me, as I desired to return to the hacienda. He replied, yea, he had finished. Mr. Slone and I then left and bid him good-bye. As we reached the corridor, he said he never wanted to see me in his house, except on official business. To this I replied, "Very well, sir," and turned to leave. He called me back, saying not to go; if I did he would send a force after me, and they would shoot, and insisted on my return into the house. I did so, without any remark. He then said I was his prisoner. I then requested him to know what was to be done. He said he would keep me in jail until he could receive instructions from San Dimas. I remained passive, and he then gave full license to his tongue, abusing me in the most violent language. Then and several times I repeated my statement of the occurrence in the store. To this he paid no attention, and treated me with utter contempt, and persisted in his intention of putting me in jail until he could hear from San Dimas, and would listen to nothing that I might say. After being his prisoner for an hour, not being allowed to speak to any one, and being guarded, I asked if he intended putting me in jail please to do so, as I had a headache, and wished to lie down. He then gave me permission to go to the hacienda, but to consider myself still his prisoner, and [to report] at his house whenever ordered.

My Dear Sir, I have before given you as minute a state of events exactly as they occurred as it is possible to write, and from which you will see that if I have given any cause to Don Nicanor to imagine himself insulted it was done ignorantly, as nothing was further from my thoughts than insulting him or hurting his feelings in any manner, and I submit it to your judgment whether I deserved the treatment which I have been subjected to, abused and insulted, without any provocation, and have no redress left me. But for being a prisoner, I would come and see you in reference to the matter, but unfortunately necessity compels me to write.

Don Nicanor intends writing to San Dimas, and will of course give his version of the affair. Please act on this immediately, as I don't care to be any longer under restraint than possible.

Yours, most respectfully,

CHARLES H. EXALL,
Administrator La Abra Silver Mining Company.

Q. Now, in what did Mr. Exall's account of this imprisonment differ from the statement that appears to have been made by him to this political chief?—A. I do not know whether in allusion to this he stated to me that he had been imprisoned and was kept in prison two weeks or perhaps more; two weeks at least, I remember distinctly he said so, and had been variously interrupted and interfered with by the officials.

Q. Now, was there any other occurrence that he mentioned to you besides this in reference to which he spoke at the time he reported to you when he had been imprisoned?—A. Well, he spoke of the general interference and hostility of the—

Q. I speak of a particular occurrence.—A. I do not think he spoke of any particular occurrence as having any particular restraint, except this time that I speak of in which he said he had been imprisoned two weeks. There was no other particular occurrence of that sort that I know of. I heard of no other particular occurrence of that sort.

Q. Did he make any detailed statement to you of the facts attending his arrest and imprisonment?—A. I do not think he did particularly. If he did it does not occur to me. He did not go into any minute particulars as I remember now.

Q. Do you remember hearing the facts as stated in this paper before you?—A. No, sir. I never saw them.

Q. I ask if you heard of them, these facts stated in this paper?—A. These facts stated in this paper?

Q. Yes.—A. None other than if this alludes to the imprisonment I did hear of them.

Q. No; I speak of the state of facts as presented in this paper.—A. I have not heard of them.

Q. Never heard of that until you saw it in print here?—A. I never heard of that communication.

Q. I did not ask you about a communication; I only asked you about the facts.—A. Well, I only ascertain the facts from the paper.

Q. Did you ever hear of such a state of facts before seeing it in this paper?—A. I did not.

Q. You did not?—A. I did not.

Q. Exall did not communicate to you?—A. He might have communicated to Mr. Rice or——

Q. I did not ask you that. I am only asking if he stated the facts presented in this paper to you at any time after his return from Mexico to New York?—A. He communicated the state of facts more aggravated than—his account to me—than this would show.

Q. Relating to the same transaction?—A. I presume so. I do not know what this transaction alludes to, but I suppose to that imprisonment. He did not say he was imprisoned twice to me, and it may be that this is his relation to Mr. Rice of that fact. Of that I can not say of my own knowledge. I don't know.

Q. Well, you know whether you heard that statement made by Exall before you saw this paper?—A. I tried and tried to state that when he came back he gave a general account of his interruptions there and that he had been imprisoned, as I tried to state as clearly as I recollect.

Q. Well, you know now whether you recollect of having heard this state of facts as stated in this paper before you came here?—A. I do not recollect of having heard of this statement as made in this letter in that way.

Q. Now, then, what statement did you hear?—A. I tried to state that when Mr. Exall came back he gave us a statement of his annoyances, interruptions to his business, and the fact which he claimed, that he had been imprisoned there, and that in consequence of his inability to conduct the business and his fear of personal harm he left there. That was his statement to the directors and myself.

Q. Now, in that statement did he specify the imprisonment or the cause of it, or who had made it, or when it was made, or where it was made?—A. He said the authorities had interfered with him in the conduct of his business—had imprisoned him. What the particular names of them, if he gave them, I do not now recollect. I did not know the parties and do not remember.

Q. And you have no recollection of having this detail of facts?—A. Not that detail of facts.

Q. Well, one resembling it and relating to the same transaction?—A. I still adhere to my original statement that I made. I have never seen this letter until now, this minute. I never read it before or heard it read, never looked over that letter until you just read it to me, and I do not remember of knowing the fact that he had written to Mr. Rice about this matter.

Q. What Rice is it you speak of?—A. It was a Mr. Rice who lived over at San Dimas. Is it to Mr. Rice? I think it is to Mr. Rice.

Q. No, this is not at all to Mr. Rice.—A. I thought you said it was to Mr. Rice.

Q. You had the paper before you; you could see as well as I could.—
A. Well, I supposed it was a letter to Mr. Rice, but I had never seen this letter. I never saw this letter before this morning. This is to—

Q. The gefe politico, San Dimas, Durango.—A. Yes. I did not know it. I thought it was to Mr. Rice. I know he has written some to Mr. Rice.

Q. Now, I put that question to you again, to see if I can not get a direct answer to it. You have got this paper to examine. Did you ever hear of the state of facts set forth in this paper in regard to the imprisonment of Exall before you saw this print here this morning?—

A. I did not. That is to say, I did not hear of this as detailed in this communication to the gefe politico, this Mexican officer.

Q. Now you say as detailed in this paper?—A. Yes.

Q. Did you hear of a similar state of facts from Mr. Exall before you saw this paper?—A. I heard Mr. Exall on his return say to me that he had been imprisoned there, that he had been interrupted in his operations by the authorities, and that he left there because he had been interfered with so that life and property was not safe.

Q. Was that all you heard from him?—A. That is substantially the statement to the company.

Q. Was that the whole of it?—A. Well, it may have been more full, and probably was, but I do not recollect. That was the sum and substance of it and the best I can remember.

Q. Now, do you remember that it was more full than that and corresponded with the state of facts presented in this paper?—A. I do not, and I am satisfied it did not correspond with the condition of things detailed in this paper.

Q. If you are satisfied of that, how can you be satisfied of the substance of what he said?—A. Well—

Q. If you are stating your conclusions, not the facts, I will ask you again, how can you be satisfied that his statement differed from this statement?—A. I give you my recollection.

Q. I ask you again, how can you be satisfied that his statement differed from this?

Mr. McDONALD. Mr. Chairman, the witness has stated he gave you the substantial facts.

The CHAIRMAN. I do not believe this witness is giving a fair statement. I do not believe Mr. Garth is giving a candid statement about it.

The WITNESS. I am giving you the best of my recollection.

The CHAIRMAN. I think not.

Mr. McDONALD. I submit it is not right to argue that question with the witness.

The CHAIRMAN. I think I have a right to examine him. I have to report to the committee and to the Senate about this matter, and am only sorry they can not see his manner. The question is a very simple one, and he is —

Mr. McDONALD. I think he has answered it.

The CHAIRMAN. Judge McDonald, he has never answered it at all, in my estimation; he has evaded an answer.

Mr. McDONALD. I desire to have my statement go on the record.

The CHAIRMAN. Both statements shall go down.

Q. Now, in order to have this matter perfectly understood, if I can get it so, I will ask you that question again. How could you know that the statement of facts, not the conclusion, that the statement of facts Mr. Exall made to you differed from this statement unless you could

remember what facts he did state to you?—A. I tried it, have tried over and over again. I could not detail all the statements and conversations that Mr. Exall had with the company. I stated as near as I can about what he said, as near as I have any recollection of it and the facts, over and over again as he gave them to us, and in that respect it differed from the statement which I see here to-day in this book, in this respect, that they were more aggravated in their—that is to say, they were more detailed. He claimed to be imprisoned, more troubled, more persecuted, to a greater extent than would be indicated from this letter.

Q. Now, how can you arrive at that as a matter of fact unless you can remember what Exall stated to you?—A. I did try to state I can not remember all that Mr. Exall stated. I arrive at that from what Mr. Exall stated to me as matter of fact.

Q. You are coming to a conclusion instead of stating a fact.—A. If I knew how to state it any more clearly than I have done I would do so.

Q. Now, leaving out Mr. Exall's statement as to whether Mr. Exall's imprisonment was as severe or more severe than it is represented in this paper that I have before me and you have before you—leaving that out of view, can you state to the committee that he made any statement of fact which differs in any particular from the statement of facts contained in this paper?—A. In the statement in this paper—if that relates to the same circumstance, to the same thing—it appears that he was simply put under duress. In the statement given to the parties in New York on his return he represented himself as having been imprisoned; having been in jail.

Q. Well, there is a difference, of course?—A. Well, that is what I have been trying to say, and I have been unfortunate in not being able to do so.

Q. Did he say where he had been imprisoned?—A. He said in jail. I don't know whether it was at that village or what sort of confinement it was, but he stated he was imprisoned in jail, but whether there is any jail there or whether there is a jail at San Dinias I do not know.

Q. Did he say he was actually imprisoned in jail, or that he was simply notified that he was to be considered under arrest?—A. That he did not state; he stated that he was imprisoned.

Q. Well, did he say he was imprisoned in jail?—A. I don't remember whether it was in jail, or whether it was a calaboose, or what it was.

Q. Or his own house?—A. He said he was imprisoned.

Q. Did he say he was at his own house?—A. I think not. He said he was imprisoned, and I was led to believe from that that he was confined somewhere in some house, or jail, or prison of some sort. This seems to say that he was merely under duress or restraint or something of that sort, which, in that point, as I tried to state, was different from what was stated to us.

Q. Here is another letter, which appears by these papers to be in Exall's handwriting and addressed to you, dated January 24, 1868, on page 86. I will read that to you to see if you have any recollection of having received it:

MAZATLAN, January 24, 1868.

D. J. GARTH, Esq.,

Treasurer La Abra Silver Mining Company:

DEAR SIR: I came down to meet steamer from San Francisco, in hopes of receiving letters from you; I received none, and now, being entirely out of funds and stock, and being sued by the agents from Bank of California for the payment, have to let things take their own course, as I am unable longer to protect your interests here. In previous letters I have given you full and detailed accounts of affairs here, and such frequent repetitions I find useless, and will simply state that I am doing nothing whatever at the mines, and can not until I receive money to operate with; I haven't

means to protest now and they are liable to be denounced at any moment. Some months since I wrote you for titles; the Government demanded them; they have not been received.

By December steamer I sent you a telegram from San Francisco; no reply. The parties I sent the dispatch to in San Francisco sent it on to New York. I am owing considerable and no means of paying. What is your intention? Is it to let your interests here go to the dogs? You have either to do this or send money out to protect them. If by next steamer I receive no assistance from you I intend leaving for the East. I will go via San Francisco, will from there telegraph you what further steps I shall take. I have been doing everything in my power to keep the Bank of California from getting possession; thus far have succeeded, but can prevent them no longer, and fear they will eventually have their own way. Mr. Cullins (who is not the man he was represented to be) left by last steamer.

I have only one man with me now; am compelled to keep some one. Please telegraph me in San Francisco, care of Weil & Co., immediately on receipt of this. You can judge by what has been done in New York and sent to me whether or not I may have left. Please let me know your intentions.

Respectfully,

CHARLES H. EXALL.

Q. Did you receive that letter?—A. I have no recollection of having received it.

Q. Were you informed of the state of facts set forth in that letter?—A. I was not.

Q. Not informed by anybody?—A. No.

Q. Or any of them?—A. Anybody or any of what?

Q. Any of the facts?—A. I was not informed by any one of the state of facts as set forth in that letter.

Q. Or any of them?—A. Any of what?

Q. Any of the facts set forth in the letter.—A. Any of the facts. I believe I got no telegram from him. I see here he said he sent a telegram; I have no recollection of ever having received a telegram from him.

Q. You say you did not get one?—A. I did not get a telegram, to my recollection. It would probably have been impressed upon my mind if I had received a telegram from San Francisco.

Q. This telegram was sent from San Francisco, it appears.—A. I don't recollect of ever receiving a telegram from him.

Q. At any time?—A. At any time.

Q. Did you know that he was "entirely out of funds and stock?"—

A. I did not. I endeavored to make clear that he would be able to sustain himself after the mills got to running and they got to beneficiating ore. I supposed he would be able to sustain himself at least.

Q. Did you know he had been sued by the Bank of California for the payment of that protested draft?—A. I did not.

Q. Did not know that?—A. I did not.

Q. Did you know that in previous letters he had given you full and detailed accounts of the affairs at the mines, and that he could not proceed, or stated that he could not proceed, with the work unless he received money to operate with?—A. I supposed from his letters and from the circumstances, as I stated before, that he would have means enough to keep going and pay his expenses, on a reduced scale, under any condition of things.

Q. Did you know that those mines were in danger of being denounced?—A. I thought he would be able to preserve the property, which I presumed it was not an expensive thing to do. I don't know.

Q. Did you know those mines were in danger of being denounced?—A. No, sir; I did not.

Q. Did you have any suspicion or expectation of that kind?—A. I did not. I don't remember that I did.

Q. Did he write you some months since for titles demanded by the Mexican Government?—A. I don't remember that fact; he may have done so.

Q. Did you send any title-papers out there?—A. I don't recollect of having done so.

Q. Where are the title-papers?—A. I don't know.

Q. Where were they; did you bring them back to New York with you from Mexico?—A. No, sir.

Q. Where did you leave them?—A. My recollection of it is they were sent by General Bartholow, and were with the company in New York afterwards.

Q. You had the title-papers there then?—A. The title-papers when I left Mexico—

Q. No, I am talking about the time when Exall asked for them.—A. I suppose they were in New York.

Q. Did you send them to him?—A. I did not.

Q. You knew they were demanded by the Government?—A. I did not know they were demanded by the Government. I don't recollect that they were demanded by the Government.

Q. He says:

By December steamer I sent you a telegram from San Francisco; no reply.

Do you deny getting that?—A. I have no recollection of it whatever.

Q. Well, have you sufficient recollection of what was done to say you did not get it?—A. I did not get it that I know of; I know I did not.

Q. You did not?—A. I know I did not.

Q. He says:

The parties I sent the dispatch to in San Francisco sent it on to New York.

A. Yes.

Q. Did you know that he was owing considerable and had no means of paying anything?—A. I supposed he would have the means of paying when he got the mill running; that he would be able to pay his way, at least.

Q. He asks you:

What is your intention; is it to let your interests here go to the dogs?

A. I have no recollection of any such letter.

Q. Or any question of that sort being put to you by Mr. Exall?—A. No, sir.

Q. Well, what was your intention at that time, January 24, 1868?—A. Our intention was to let the works pay their own way.

Q. And suppose they did not?—A. Well, that is a matter that would be for further consideration, perhaps, by the company. So far as I was concerned myself, Senator, I did not intend to pay any more money out of my own pocket towards the carrying on of the enterprise, as I have tried to state several times.

Q. He says:

If by the next steamer I receive no assistance from you I intend leaving for the East.

Do you recollect his giving you such notice as that?—A. I do not.

Q. Were you surprised when you found him in New York?—A. Yes I did not expect him.

Q. Who came with him?—A. I don't know.

Q. Did you order him back to the mines?—A. I did not.

Q. Why not?—A. Well, he said he had left the country because he did not consider it safe, and such was the condition of affairs that it could not be worked to advantage, or could not be worked at all with safety to life and property; that was the expression, and the company just let the thing go.

Q. Did he say anything to you about the want of means to carry on the work at that time?—A. I don't remember.

Q. Nothing about that?—A. I don't remember.

Q. Did he tell you how many hands he had left at the mines?—A. No, sir.

Q. Did he not tell you he had left only one man?—A. Not that I remember.

Q. Did he tell you he had been sued by the Bank of California?—A. I don't remember it.

Q. Did he tell you unless you intervened some way the bank would get possession of the property?—A. No, sir; I know he did not. The Bank of California was trying to get the money out of us.

Q. He did not inform you that he had been sued then?—A. I have no recollection of it.

Q. Well, if he had informed you you would remember it?—A. Probably.

Q. Did not he say: "I have been doing everything in my power to keep the Bank of California from getting possession" of the property?—A. I recollect nothing of that sort.

Q. Did not he tell you he could prevent them no longer and feared they would eventually have their own way?—A. I recollect nothing of the sort.

Q. Mr. Cullins, you say, came to New York?—A. Yes, sir; came with Mr. Hardy.

Q. Came before Exall did?—A. Oh, yes.

Q. How long before?—A. I don't know. He went back; after coming to New York he returned to Mexico.

Q. Was that in January, 1868?—A. Oh, no; it was long previous to that.

Q. Well, he says—

Mr. Cullins (who is not the man he was represented to be) left by last steamer.

A. I never saw Mr. Cullins after he left New York to return to Mexico. After that date I have never seen him to this day.

Q. Did you telegraph Exall to the "care of Weil & Co., San Francisco," as he requested here?—A. I did not; have no recollection of it at all.

Q. You say you did not?—A. I did not; I have no recollection of it.

Q. Did Exall apply to you to know what your intentions were about keeping up the mine?—A. When he came back?

Q. At any time?—A. I don't remember.

Q. You don't remember that he ever asked you whether you intended to go on with the work or not?—A. I don't remember now.

Q. I see a note here from Exall to Granger, which I will read, dated February 21, 1868 (page 87):

TAYLOR, February 21, 1868.

Mr. JAMES GRANGER:

SIR: As circumstances are of such a nature as to compel me to leave for San Francisco, and probably for New York, to inquire into the intentions of this company, I place in your hands the care and charge of the affairs of the La Abra Silver Mining Company, together with its property.

You are invested hereby with all power confided to me, of course, acting in all your transactions with an eye to the interests of the company.

This will to you, should occasion require it, be ample evidence of the right possessed by you to act in their behalf.

Very respectfully,

CHARLES H. EXALL,
Administrator La Abra Silver Mining Company.

Did Mr. Exall inform you that he had made such authorization as that to Mr. Grauger?—A. I don't remember that he did.

Q. Did he say anything about it?—A. My recollection is that he did not; that he left the country and left the mines; left everything as they were.

Q. Did he inform you what property he left there?—A. He left the mill and the property of the company that was there.

Q. Did he inform you what that was?—A. No, sir; if he did—whether he made any written report or detailed report I don't know.

Q. I did not ask you either about a written report or detailed report of that property there.—A. No, sir; he did not.

Q. Never said anything to you about it?—A. I think not.

Q. Never mentioned what property he left there?—A. I don't think he did to me.

Q. Or what it was, or who was in charge of it. Now, did you ever ask him—

Mr. Exall, what did you do with the property of this company?

A. I don't remember that I did. The idea was that he left the country under apprehensions that his life was not safe, and he just left the property there; abandoned it.

Q. Did he tell you he had to come off in disguise, or anything like that, to escape through the country?—A. No, sir; I don't remember that he did.

Q. Did you pay his expenses to New York?—A. Did I pay his expenses?

Q. Did the company pay them?—A. I don't remember that they did.

Q. Well, do you remember that they did not?—A. I don't think they did; I don't think that his expenses were paid from Mexico to New York that I now have any recollection of.

Q. Did you ask him for any account of cash that Mr. De Lagnel had left there when he went into possession of that property?—A. I don't remember. I suppose there were some statements to the company, but what they were in respect to his accounts I have now no recollection.

Q. Do you recollect that the subject was thought of at all, about what had become of the property that was left there in Mexico?—A. I don't remember, sir; probably—

Q. I am not asking you probabilities; I am asking you what you recollect.—A. I don't recollect. My recollection of it is not such as I could speak of it. I don't know.

Q. You have no recollection that there was any conversation about any of the property in Mexico with Exall when he came away?—A. I don't remember it. I suppose, though—

Q. I do not want any suppositions; I just want your recollection.—A. Well, I have no recollection of it particularly at all.

Q. Did you say "particularly at all"?—A. I say I have no recollection of the particulars.

Q. I am not asking you for the particulars. I ask you if there was any conversation on the subject?—A. I can not recollect whether there was or what it was.

Q I do not ask what it was. I ask you if there was any conversation on that subject?—A. It is probable; I don't remember, though.

Q. Do you remember whether there was or not?—A. I don't remember. I try to state over and over again that I have no recollection of it.

Q. I don't think you do; I don't think you try to state at all. Now, do you recollect that there was any conversation on the subject—I do not ask you what the conversation was—of the property that he left there?—A. I think there was, but what it was I don't know.

Q. Now, if there was, state your best recollection of what your conversation was.—A. Well, the conversation was that whatever was there he left there, being unable to continue longer on account of the troubles and the difficulties and the fear of personal harm, and he just left the things there; that is about the substance.

Q. Did the conversation relate to what things he did leave?—A. Nothing more than the mill and the property.

Q. Did Exall say to you that he abandoned that property and came off and left it, or that he turned it over into the hands of somebody else?—A. He represented to us that he abandoned the property.

Q. He did; you remember that?—A. That he abandoned the property.

Q. Who did he abandon it to?—A. He abandoned it to the country, I suppose; he left the country of Mexico.

Q. Abandoned it to the country?—A. I suppose so; he abandoned it.

Q. To any particular person?—A. Not that I know of.

Q. Did he inform you of any person who was claiming it?—A. I don't recollect that he did.

Q. Did he inform you of any person who had taken possession of it?—A. I don't recollect that he did.

Q. Did he inform you of any person who had threatened to take possession of it?—A. I do not have any recollection of it now.

Q. Did he inform you of any proceeding against it of any legal or judicial character?—A. No, sir.

Q. Did he inform you of any military seizure of it?—A. I think not.

Q. Nothing of the kind?—A. No, sir.

Q. So that, if he abandoned it, he merely came off and left it?—A. Came off and left it.

Q. And without any charge of any sort?—A. Not to my knowledge.

Q. And not by reason of any seizure that had been made or threatened?—A. I think not; I don't remember of that.

Q. And now were you content with that statement, just in that form, about your property?—A. I supposed they had to be content with it.

Q. Had to be?—A. Yes.

Q. Could not you make any inquiry about it or did you afterwards make any inquiry what became of it?—A. The whole property was then and there abandoned; the company did nothing for some years that I know of; several years.

Q. Did you ever make any inquiry of any person as to what became of the property?—A. I don't think so; I don't remember ever having made any inquiry about it.

Q. Made no effort to regain possession of it?—A. No, sir.

Q. No effort to do any other thing with it?—A. Not at all that I remember now.

Q. What was the value of it at the time that you allowed it to be abandoned in this way?—A. I don't know what the value of it was.

Q. What did you estimate the value of it at that time?—A. I supposed that it was what had been spent there at any rate, and, perhaps,

much more. I don't remember making any specific valuation of the property at all.

Q. What do you now estimate that the value of the property was at the time that Exall abandoned it and came off?

Mr. McDONALD. Mr. Chairman, I would like to know whether that embraces the title to the mines as well as the personal property, ore?

The CHAIRMAN. Everything that is alleged to have been abandoned.

Mr. McDONALD. Everything that is there—mines, property, and ore?

The CHAIRMAN. Everything that is alleged to have been abandoned; yes.

Q. What do you now state was your then estimate of the value of it?—

A. I don't recollect that I made any estimate of the value of it at all.

Q. Well, what do you now state was the value of it at that time?—

A. According to my recollection there was about—I think some \$300,000 had been spent there in the cost of the mines and developing.

Q. I do not ask you to argue it at all. I ask you to state what is your estimate of the value of that property there at that time.—A. I think the value of the mines, mills, property, etc., was at least \$300,000.

Q. At that time?—A. At that time, because it had cost that.

Q. And there was \$300,000 worth of property that your agent abandoned?—A. There was also, represented by others, a large quantity of ores which had some value; I don't know what the value was.

Q. Did you add that to the other valuation?—A. Which?

Q. The ore.—A. I should think it ought to be.

Q. No, I am getting your opinion about it.—A. Yes, I should say—

Q. Add that to your valuation. What would you estimate the ore to be worth?—A. I don't know how many tons there were and could not say.

Q. Well, what is your estimate now?—A. I have no means of making any estimate; I don't know the quantity that was left there. I don't know the quantity or amount it would turn out. It would be the merest guess work in respect to that.

Q. Did you not know as much as any man belonging to your company in New York knew?—A. Possibly.

Q. Did you know as much about it as any agent or attorney of yours in New York knew?—A. I don't know.

Q. Is there anybody that you can think of or name that knew more about it than you did in New York?—A. I don't know; there were other members, directors, or trustees, that were fully as capable of estimating these things, or perhaps better, than I was, who had more time and gave it more attention.

Q. Was there anybody who knew of the state of facts better than you did in New York?—A. I think the president and the secretary and others knew fully as much if not more than I did about the matter.

Q. Fully as much, if not more?—A. Yes, sir.

Q. How could they when you were conducting the business of the company, the correspondence?—A. Senator, you try to make out that I was the appointed agent.

Q. I am not trying to make out anything; you were there acting as the controlling functionary, whether you call yourself an agent or not, of this company.—A. I was there as one of the company.

Q. Well, you will not get off on that. I want to know if there is anybody you can name in the city of New York at that time who knew more about the value of the property and facts than you did?—A. I suppose Mr. Collins, Mr. Gibbs, and Mr. Worthington knew as much or more about it than I did.

Q. Did not you know as much about it as they did, and did not you have equal opportunities to know?—A. It is possible; I think so.

Q. Now, then, with all this knowledge, what did you estimate the value of the ores that had been taken out of the mines at that time?—A. At that time I don't know that I estimated any value of the ores at all. I don't recollect of it.

Q. You had had returns?—A. The whole thing just dropped.

Q. You had had returns of the ores taken out of the mines, had you not?—A. Very few. I asked repeatedly in my letters to Bartholow and the others for monthly returns that I never got.

Q. Was it important you should have them?—A. No; it was a general thing.

Q. Not important enough to go out or send somebody out to see what they were at?—A. I would not have gone out to Mexico, and I would not to-day go out there and live out there for all Mexico.

Q. Now, do you add the value of the ores to this estimate, \$300,000, that you put upon that property?—A. Yes; whatever it was.

Q. Can you state what your opinion is of the value of those ores?—A. I can not now. I can not.

Q. Well, suppose those ores were worth \$50,000, then the value of the property abandoned by Exall there would be \$350,000, according to your opinion?—A. I reckon so.

Q. Now, do you think it was larger than that?—A. I don't know; it is a pure guess.

Q. It is a matter of opinion?—A. Yes; there might have been more.

Q. Well, this property abandoned there by your agent to the value of \$350,000 or more, I understand you to state you never made an inquiry about it after that time?—A. The thing just fell in a moribund condition.

Q. You sent no agent there?—A. I did not; not to my knowledge.

Q. Did you appeal to the United States Government about it in any way?—A. No.

Q. Did you appeal to the Mexican Government in any way?—A. Not that I know of. I did not.

Q. Well, did your company?—A. Not to my knowledge.

A. If they had done it would you have known it?—A. I think so.

Q. Then the case is that your agent came off and left \$350,000 worth of property there, and that you neither made an inquiry about it, or made any appeal to the Government of Mexico or appeal to the Government of the United States about it, and that you sent no agent there to look after it, but merely gave it up?—A. That was the condition of things.

Q. And all that was done upon Exall's representation that he had been imprisoned for two weeks?—A. And, as I tried to state, interfered with.

Q. Now, who interfered with him? I want to get at the particulars.—

A. Well, he represented that there is a hostile sentiment of the people of Mexico to Americans.

Q. Can you name any individual whom he stated interfered with him?—A. No; I don't remember, because I have no acquaintance there. If he mentioned them I would not remember.

Q. Can you mention any official, in his official character, or any person who interfered with him?—A. No, sir; I don't know the officials.

Q. Can you mention any instance of interference that he informed you of besides this two weeks' imprisonment of which you have spoken?—A. And the interruption inimical—

Q. I am talking about a specific instance of interference.—A. I have no recollection of it now.

Q. Did he tell you he had been interfered with, and then did not give you the facts showing that he had been interfered with?—A. Why, I suppose my recollection of it is that he said they required him to work the mines in a certain way and to put a certain number of men at it, and that he was generally obstructed in his method of working by the authorities there, and that the general sentiment of the Mexicans was hostile to Americans there; he knew it was not safe for him to be there and he left.

Q. Now, in what particular way did he say they required him to work the mines?—A. I don't remember.

Q. What particular amount of force did he say they required him to keep there?—A. I don't remember that.

Q. Did he say the laws of Mexico required these things?—A. No; I don't remember that he said that.

Q. Well, do not you know that they did?—A. I don't know. I have no knowledge of the particular mining laws of Mexico.

Q. When you went there to start your mines did not you inform yourself of the mining laws of Mexico?—A. No; I did not.

Q. Well, was it a surprise to you that under the Mexican laws the mines had to be kept in operation?—A. I knew something of that sort, but how or in what way I could not say.

Q. You never stopped to inform yourself about it?—A. Oh, no.

Q. Then you don't know whether there was any interference by the Mexican authorities contrary to the law or not?—A. Not to my knowledge.

Q. Did Exall inform you of interference contrary to law?—A. He told me he was interfered with by Mexicans.

Q. Did he say it was contrary to law?—A. I do not know that it was contrary to law.

Q. Did you expect to go out there with this mining company and disobey the laws of Mexico?—A. No; I try to be a law-abiding man myself.

Q. Well, if the law required Mr. Exall or you to keep so many hands there, was that any reason for abandoning the mine?—A. I don't know that it was any reason. I don't know what the law requires in that respect.

Q. Well, when you say that Mr. Exall represented to you that they required him to work the mine in a particular way, do you mean that they required him to work it in some way not required or authorized by law?—A. I suppose so.

Q. Did he say so?—A. That was my understanding.

Q. That he said they required him to work it in some way not required by law?—A. Yes, sir.

Q. In what way?—A. I don't know.

Q. So you had his conclusion about it?—A. Yes, sir.

Q. Was he a lawyer?—A. No; not that I know of; I don't think he was.

Q. Now, that was one of the facts upon which he abandoned it, was it?—A. I suppose so.

Q. You say you suppose so; do you swear it was?—A. I swear that he told me so.

Q. That that was one of the reasons why he abandoned it?—A. That was one of the reasons; because he was interfered with by the authorities there.

Q. No; you get back on that. I only want to know if it was this particular interference, that they required him to work the mine in a certain way?—A. Well, I could not say.

Q. Now, what other fact was there in connection with that mine that caused you to abandon \$350,000 or \$400,000 worth of property without making an inquiry about it?—A. I stated the fact that when he came and made these representations the whole thing fell through.

Q. I know you stated that fact.—A. That is about as near as I can state it.

Q. Now, can you state any interference with that business, that Exall informed you of, of a specific character which caused you to abandon \$350,000 or \$400,000 worth of property, besides what you have already stated?—A. I don't recollect.

Q. You can not?—A. I don't recollect any more than I have tried to state.

By Mr. SHELLABARGER :

Q. Mr. Garth, I want to get a little more definitely, if you can tell us, when it was that you last saw the books and papers of this company, which were in New York City?—A. My best recollection of that is that it was when Mr. William Worthington was the secretary, and had the books in his possession; I think it was about 1870; along there.

Q. 1870?—A. I think so; about 1870, perhaps. If I saw them afterwards I now don't recollect it.

Q. You never saw them since that you know?—A. That I remember of now; it may have been 1871.

Q. What books did they keep? Just describe the books that were kept during the period that you knew about their books and papers.—A. I think it was a cash-book, probably, a stock-book, and a record-book.

Q. What do you mean by a record-book?—A. Well, a little affair in which the proceedings probably of the board were noted down, recorded.

Q. Now, you have mentioned a cash-book, a record and stock book; the stock-book was a separate book from the book that was kept as a cash-book?—A. Yes, sir; I think so.

Q. And separate also from the book which recorded the proceedings?—A. Yes; they were very simple, cheap affairs.

Q. Now, were they all the books you know of?—A. There was a letter-book, letter-press book, in which these letters were copied.

Q. That is to say, the letters that were sent from New York; the letters that came to New York would not go into the press book?—A. Oh, no; those were probably handed to Mr. Worthington.

Q. Now, tell more exactly, if you can, where you last saw the letters that you received from Bartholow and from De Lagnel and from Exall; where they were kept, what drawer or receptacle?—A. They were kept by Mr. Worthington. There was no safe that I remember of at all; they were just kept by Mr. Worthington in his desk.

Q. Where was that desk, in what building?—A. His office was a little room near to my own office, No. 18 New street.

Q. New street?—A. Yes, sir.

Q. Was that the place, that little office of Worthington, where those papers were up to the time you last remember of seeing them?—A. I think that is so; yes, sir.

Q. And that was in 1870?—A. Perhaps 1871; about that time.

Q. Well, how came you to cease to see those books and papers. Did you move away, or did Worthington move away, or what change brought

about the cessation of your seeing them?—A. Well, after the mines, as I tried to say, were abandoned, there was nothing else done there; there was no meeting of the board, that I remember, for a good while; but these books were in the possession of Mr. Worthington, and after I quit the brokerage business I went into the tobacco business again, which was my old business, and after a year or two of interregnum Mr. Worthington moved away, I think to Detroit.

Q. Well, we do not need to follow out the future history; I only want to get at now the time you ceased to see the papers and what brought about the cessation?—A. Well, that was brought—the cessation was the moribund condition of the company. There was nothing done; there was nothing to do there.

Q. Do you know whether they were boxed up with anybody's books or papers?—A. I don't know.

Q. You don't know about that?—A. I don't; I don't remember about that at all.

Q. So that you can not fix in your mind and tell the committee about the last actual occasion of your seeing the books and papers?—A. No, sir; I don't recollect it.

Q. The thing simply disappeared, became dead, as you call it in Latin and that was the whole of your observation of the papers?—A. Yes. After that I had very little to do with the company, and from about 1874-'75 nothing. I was away from New York perhaps two-thirds of the time, out West, and eventually, about 1876 or 1877, I went to Louisville. I was back and forth in New York, of course, because I had a house in New York and a house in Louisville.

Q. Now, there have been, if I remember your testimony in chief, meetings of the board since the thing became dead, as you call it?—A. Yes, sir.

Q. Since the bottom fell out of it there have been meetings of the directors there?—A. Yes, I think so.

Q. Have you attended any of the meetings of the board since Exall came back, or since 1870?—A. I think it is possible I have.

Q. Did they have a book that recorded the proceedings of the meetings since these other papers were lost?—A. It is possible; I don't remember.

Q. Can you tell the committee whether there is such a book and where that is?—A. I can not tell. I have no charge of it.

Q. You have not personally made any search for any book that may have been kept and recorded the proceedings since the papers were lost or ceased to be seen by you?—A. At the request of Mr. Ely, some years ago, I think I did look where possibly I thought they may have been lost, but did not see anything of them.

Q. You do not understand me. I was asking about a book that recorded the proceedings of the directors, say in the last six or eight years; do you know anything of that book?—A. I don't know anything about that book. I have not attended a meeting of the directors for years and years.

Q. Now, you spoke, in the last remark you made when I interrupted you, about your having made a search at the request of Mr. Ely. Describe that search fully, where it was made, when it was made, and why it was made, and what the result was.—A. Well, Mr. Ely—I don't know whether here or elsewhere—wanted to know whether I knew anything about the books—the old books that I am speaking about now—and I told him I did not.

Q. When, now, was that? Try to fix the date by some event or something. Get at it as near as you can.—A. I have nothing to remind me of it. It must have been some years ago. It may have been five years, probably, or six; I don't remember which; but it was some time ago, and I looked in the loft where I thought—

Q. Where?—A. In New York.

Q. But whereabouts in New York? New York is a big town.—A. I think it was where I used to keep some of my old books of D. J. Garth & Co. I think it was 163 Water street.

Q. Did you ever look in Worthington's little office that you spoke of?—A. Oh, yes; that was just a little place, cleaned out long ago.

Q. Years before?—A. Oh, yes; I moved out in 1871 or 1872.

Q. And did you never make any search for the books and papers between the time of Exall's return and this five or six years ago occasion that you speak of; did you never personally make a search for the books or papers between those periods?—A. It may be that I did, but I don't recollect it now.

Q. Do you remember of the fact, or do you not remember of the fact that the papers and books were regarded by you directors as lost prior to this time that you made the search?—A. I think so; yes, so far as I know and believe they were lost, and I have no doubt they were.

Q. Well, now state whether there is any fact or circumstance that ever came to your knowledge, or that is now in your knowledge, that makes you have reason to think that those books or papers, or any of them, were put out of the way on purpose or with a motive. If there is any such fact, state it.—A. I know of none whatever. I do not see why they should have been. There is no reason that I could conceive of why they should be that is within my knowledge.

Q. And, as far as you are personally concerned, you are not able to tell the committee where any of those books and papers are now, so that they could send for them?—A. I have no knowledge whatever; could not do it.

Q. Now, is that all you can tell us about the whereabouts of those books and papers?—A. That is all that I remember.

Q. You have nothing further that you can relate to help us get at them?—A. I know of nothing else.

Q. So far as you know, did you faithfully or did you not keep a record of all the letters you wrote to anybody or everybody at those mines from New York? If your letter-press book could be found, do you think it would contain all the letters that were written to the mines?—A. I think so, yes, sir; that is, all of an official character. I may have written to Colonel De Lagnel about his affairs, or about his wife or somebody else—about his friends; I perhaps did write one or two such letters to Bartholow, and perhaps to De Lagnel, and perhaps received some of that sort, but it was not official, and hence they were left out. I know Mrs. De Lagnel used to come to the office and ask about him.

Q. Another question. Did you preserve with care or not all letters received from the mines, business letters?—A. I think so. I think they were handed to the secretary and put in a bundle. I don't know about that.

Q. Have you any knowledge of the destruction of any business letter received in regard to the business at the mines?—A. Received in New York?

Q. Yes?—A. I have none whatever; I do not think there were any destroyed within my knowledge.

Q. I have not gone over the number of letters that are produced here written by you, but Senator McDonald says this book shows eight letters written by you to Exall at the mines. Now, just take your book and let us go over them. They begin on page 87. The first one is dated May 10, 1867. It is dated at New York, New street, and is to Exall. The next one is on page 88, written from the same place to the same party, Exall, dated May 20, 1867, and the next one is on the next page, 89, dated at the same place the 30th of May, 1867; the next one is on the same page at the bottom, page 89, dated at New York, June 10, 1867. The next one July 10, 1867, from the same place, page 90. The next one is on page 91, July 20, 1867. The next one is on the same page, 91, and is dated New York, August 10, 1867. The next one is on page 92, from the same place, to Exall, October 10, 1867. Those now enumerated are all the letters that appear in this document 274, that we have been using, containing the print of these letters. The question that is suggested to me to ask you is this, whether your recollection is such as to enable you now to state whether you wrote more letters than these nine we have just gone over to Exall about the business down there at the mines during the year that Exall was there?—A. I should judge that I wrote more.

By the CHAIRMAN:

Q. Do you mean to state that as a recollection?—A. I have no distinct recollection of writing more, but I think I wrote, as near as I can remember, pretty much by each steamer, as you will see these letters are going as they started. We had to write for the steamers, and it was monthly, or semi-monthly, or tri-weekly, or something that they started there, and I think I generally wrote then.

By Mr. SHELLABARGER:

Q. But you can not recall specifically, if I understand you, some one letter or more that is missing, that you don't find here?—A. I do not have a distinct recollection of that.

Q. So that you can not answer the question except by stating generally that you wrote more frequently?—A. That is my impression, but specifically I can not say that I actually did write each month. My impression is that I did.

Q. Now, I want to go where they began your examination-in-chief and ask something about your visit to Mexico. In the first place, how came you to go there? I mean, now, outside of your health what business engagement took you there?—A. I went there to look at the La Abra mine there.

Q. What brought your attention first to the matter of going to look after that mine?—A. It had been represented as being very valuable.

Q. By whom?—A. By Mr. Hardy. Mr. Hardy particularly.

Q. Yes, I believe you stated that. And he was there endeavoring to sell the interest that he had in that mine, was he?—A. Yes, more to raise a company to work it instead of purchasing it, as he claimed that it had great value.

Q. Well, at the time of your departure for Mexico had there been any actual business combination or partnership or organization effected that you became the employé of?—A. No; it was a number of our friends there—friends of Mr. Bartholow and myself, and perhaps of Mr. Hardy; the matter had been talked over about forming a company to develop

this mine. Hardy had samples of ores, and perhaps analysis, and various things.

Q. Well, I am only trying now—let us take one thing at a time—I am trying now to get at the idea of the existence or non-existence of an actual organization or combination that you became the employé of. Was there any such thing occurred before your departure, that you were employed by a specific set of men?—A. There was no formation of any company in that respect at all, but it was, as I say, these gentlemen, a number of them; had thought from the reports of Mr. Hardy that this thing was a valuable enterprise, and they said that if I would go out there to look at it and reported favorably they would take an amount of stock in it.

Q. Did they make up a purse for your expenses before your departure?—A. No, they did not that I remember of.

Q. You paid your way out of your own pocket?—A. We paid our way out of our own pocket.

Q. Who went beside you?—A. Mr. Bartholow, a man by the name of Griffith, who said he was a miner and expert judge of rock.

Q. Where did Griffith live?—A. I think he had been in California, but he was then in New York.

Q. Yes; he went with you from the city?—A. He went with us from the city.

Q. Bartholow also was with you?—A. Yes, sir.

Q. And you were there and Griffith was there?—A. Yes, sir.

Q. And who else?—A. I. V. Hardy and Doctor Hardy.

Q. Well, did you pay the expenses of all these men or did each man pay his own?—A. Every man paid his own expenses.

Q. At that time, then, there was no combination at all in the shape of a partnership or corporation?—A. No.

Q. It was simply an initiatory movement for the purpose of ascertaining whether there should be in the future a business organization to buy?—A. Yes, sir; that was the state of facts.

Q. And you went down there?—A. Yes, sir.

Q. Did you go directly there without any unnecessary delay?—A. There were necessary delays; that is to say, we went to California; there was no way of getting to that point, Mazatlan, that I know of, except via San Francisco, because the steamer—there was a steamer plying, I think, monthly or perhaps semi-monthly, between Mazatlan and San Francisco.

Q. Was that the one that carried the mails?—A. I think it was.

Q. Did your mails go by that way afterwards?—A. I think they must have gone that way; I know of no other way.

Q. Now, what time did you get there; what time in the year?—A. I got there, it must have been, about some time in May; whether it was the 1st or 10th I do not now remember.

Q. That was in 1865, was it?—A. That was in 1865.

Q. You can probably fix that certainly by the close of the war; the war closed about April, 1865?—A. Yes, sir.

Q. It was just after the close of the war?—A. It was just after the close of the war, but the war had not closed when we left New York. I recollect that distinctly.

Q. Do you mean the war in Mexico or the war in America?—A. In America, because we got no news. I recollect when we got to San Francisco we learned of the assassination of President Lincoln.

Q. Well that makes very definite the exact time of your departure.—A. But I do not recollect the day we got there. I recollect the fact that it made a great impression on everybody and on me.

Q. Now, without going over all that has been gone over, there are a few things about the matter I want to get more definitely in the record, and one is, how many of the various openings that you mentioned in your examination in chief; you mentioned La Abra, you mentioned El Cristo, you mentioned Arroyan and La Luz; those are all the openings that you bought, were they not?—A. I do not recollect; there may have been some other.

Q. With the exception of some stock you got in Guadaloupe?—A. Yes, sir.

Q. Very well. Now there are four openings, La Abra, El Cristo, La Luz, and Arroyan. Now there are four. You have described the general lay of them and you have said you went into one of them, La Abra, twice. Is that right?—A. That is so. I think we made two trips.

Q. How did you descend or get in; by a ladder, or did you walk in?—A. We had to go down by a ladder and by some ropes and one thing another. It was quite a deep opening; quite a large opening.

Q. About how deep?—A. Well, I should say, down to the bottom from the top, we went down probably 300 feet.

Q. Was it an artificial or natural chasm?—A. It was the vein which had been worked out, leaving the—

Q. Very well; that answers the question. It was not natural, but it was made by miners?—A. Yes; if you mean that.

Q. And it was about how wide?—A. Variable; I should think from 10 to 12 or 15 feet, oftentimes. Sometimes not so wide, but very distinct and clear, walls of granite rock as I supposed them to be, or gneiss or whatever you call it.

Q. You described one vein, I believe, in your opening examination, and only one vein of precious metal. Now, describe the size or extent of that in width, or the best way you can; describe the extent of it in its richness and the extent to which precious metal was disclosed to the eye.—A. Well, if you are speaking in reference to the—

Q. I am speaking of the La Abra, the one you spoke of in your chief examination. I want to get a description of the extent of the vein that could be seen.

The CHAIRMAN. Judge, allow me to inquire whether your question has reference to the extent of silver, we will say, or gold, of the ores in which the silver and gold was found.

By Mr. SHELLABARGER:

Q. That is just what I want to know; the extent to which a miner could see a disclosure or indication of precious metal, whether silver or gold, in that vein that you have spoken of, how wide it was, how much there was of it on the surface?—A. Why all the ore, as I tried to explain to you, had been worked out. I do not know how many years ago, but this vein had all been used up, as I understand it, and the walls were standing there upright.

Q. Exactly, but there was still there that which you took out, and I want to get at how big these veins you dug into were, how much there was of it.—A. They were cross-sections that were originally in the development of the mine, I suppose. They expanded horizontally from that wall to that wall [indicating], whatever it was, and they had been worked out, leaving projections. I should judge that those pillars, as they called them there, were in extent varying from the square larger than that [indicating] close to twice as large. I do not know how much now, but those had been worked out. Those had been used up probably, but there were still sticking to that wall some of these pillars that

had not been used up, some on that side and some on this side, and it was from these pillars, which evidently had been ore and was ore sticking to this granite rock on each side, that we got these samples.

Q. Was it granite or quartz?—A. Oh, as I understand —

Q. It is found there in granite, is it?—A. No, no; you do not understand me at all. The mine itself is quartz and there are granite rocks in which this quartz is found. This quartz is dug up sometimes with picks and sometimes with powder—blown up. The quartz is the vein.

Q. Quartz is thrust up probably by internal forces and bears the gold?—A. Yes.

Q. Now, fix any way to get an answer to the question that I wish to have answered, and I do not know that I am right about it, but I suppose there was on some wall somewhere a line that was marked with the fact that it contained precious metals, that the experienced eye of the miner would say, "there is gold," or "there is silver," and that is visible to the eye of an experienced man, so that you could see that there was a vein of precious metal. Now, is that the fact?—A. It was the fact. I was there. I could not see precious metals because that had long been used up, probably twenty years or fifty years ago, I do not know how many, but there were some pieces of these pillars that horizontally ran across to keep these walls, I suppose, from tumbling in, and there were some of those left. Sometimes they were sticking out a foot and may be a hundred weight or more, so that you could go there and chip some of it off.

Q. How many different places in the La Abra opening did you take the ore from and carry it down as you described; how many different places or points?—A. About three or four or five, perhaps.

Q. Selected with the design of getting the very best and leaving the poorest, or did you endeavor to get an average to indicate the average condition or value of the ore?—A. I tried to get what was said to be an average. I was not an expert myself in this matter.

Q. Well, you had your men there with you, your agents, and they operated under your direction?—A. They were asked to do so.

Q. And your aim was to get an average, and not a deceptive return?—A. Yes; that is true.

Q. Now, when you came to make the tests, the different tests you did make, whether made in New York or elsewhere, did you keep separate the La Abra ore, so that you knew when it had been beneficiated; when you got out the precious metal did you know what particular opening you were working on, or did you mix up the ores from the different openings in the bag so that you did not know which came from where?—A. No; there were servants along and helpers that had sacks, and these stones or ore was knocked off and carried in these sacks by the helpers or mozos, as they are called.

Q. Now you say the aim was to keep the ore of the different openings separate?—A. Yes.

Q. Very well. How many different openings did you take specimens out of? Call them over by name.—A. After having taken the ore from La Abra, I believe that was the first. I do not remember whether it was first or not. After we had taken ore from one, the La Abra for instance, we then took specimens from the other mines in succession where they lay.

Q. All of them?—A. The El Cristo and the La Luz, and the Arayan, I think. I do not remember now of any others. I think those were the principal ones.

Q. Now, you took from all these various mines specimens of ore, en-

deavoring to take an average, and you kept them in separate bags and they were carried down. Is that right thus far?—A. Yes.

Q. Now tell me what results you obtained from the ore you obtained from La Abra as to the quantity, yield to the ton, or in any way that it was ascertained.—A. I think that the ore we took from La Abra was run into a little brick, a little piece that I took to New York in my pocket, just a little thing, and when I got to New York I had a little piece chipped off and an assay made and it was very rich, \$1,200 or \$1,300 to the ton, so it was said.

Q. Where is that brick now?—A. Oh, I had a little cane made of it—the head of a cane, which was given to Mr. Collins or Mr. Hearn.

Q. Well, it can not be produced here to the committee?—A. I have not seen it for many, many years.

Q. I did not mean the cane, for that would change its character. The brick itself could not be had?—A. Oh, no.

Q. When was it changed from its form—a brick to a cane?—A. It was not a cane; it was the head of a cane.

Q. Well, the head of a cane?—A. Soon after I got back to New York.

Q. Long before there was any trouble about the matter?—A. Oh, yes; years.

Q. Now, you have given us La Abra. Now, is that the only analysis from La Abra that you can give to the committee?—A. That is the only analysis that was taken under my auspices.

Q. I mean from your own work there.—A. Yes, sir.

Q. What now was the result out of the El Cristo opening; was that assayed at all?—A. Yes; I think that was made an assay on the patio down there.

Q. Did you go into the El Cristo?—A. Yes, I went to the El Cristo.

Q. Describe the opening there?—A. Well, it was a much smaller opening.

Q. Was it an old opening that had been made in the ancient times—historical times—or was it a modern thing?—A. I think that was altogether made by Mr. Castillo. It had nothing to do with the purchase we made of Hardy at all; that had nothing to do with the La Abra.

Q. How did it turn out in richness?—A. I think that it turned out very well, and larger in gold than any we had. It produced a larger proportion of gold than any other mine that was there.

Q. Was it being actually worked when you were there?—I think not. I think Castillo was not at work.

Q. Was any one of the four being worked when you were there?—A. I think he had some men doing something in the La Luz mine.

Q. Well, did you personally go into the La Luz, and what kind of a hole was that?—A. That was more of a—it had not been worked down as deep as some of the others. You did not go down as deep into the workings as perhaps the La Abra or El Cristo. It seemed to have been a later excavation or enterprise.

Q. Now, did you take the chisel and mallet and get specimens out of that too?—A. I did not personally.

Q. Well, did your men in your presence?—A. They did.

Q. So you went into that also?—A. Yes, sir.

Q. Now, there we have got the La Abra, the El Cristo, and the La Luz into which you went personally and saw specimens of ore taken out with a chisel?—A. Taken out with a chisel.

Q. How did the last, the La Luz, turn out in richness?—A. I think it was rich, but precisely what—it was satisfactory, I know.

Q. Where was it analyzed?—A. It was beneficiated—analyzed there at the patio.

Q. By what process; by pounding it?—A. By speading out, I would say.

Q. By quicksilver?—A. I think so.

Q. No heat applied?—A. I do not think it was burned at all.

Q. Well, there are three. Now, didn't you go into the Arrayan?—A. I do not remember particularly, but I think that we went into them all; that is, all the principal mines.

Q. Do you remember, without giving mere impressions, but knowledge—do you remember as a fact you took specimens out of the Arrayan?—A. I know we took specimens. Come to think about it, we went into all the mines that this man Castillo had been working. There were four, and the Arrayan was no doubt one of them.

Q. Now tell the committee what the character of the ore was out of that fourth one; I mean as to the way it showed when it came to be analyzed or assayed?—A. Well, that was taken out in the same way as the other, by chisel.

Q. I know; but I am asking how much it yielded to the ton?—A. I do not think they took any out that did not yield over \$100 or \$150 or \$160 to the ton. It was all of good yield, but precisely now what those yielded I have no recollection of the precise quantity, but I know it was esteemed very satisfactory.

By Mr. FOSTER:

Q. What was the yield?—A. \$120 or \$130.

Q. One hundred and twenty dollars or \$130 or \$150?—A. Yes, sir. It was considered satisfactory to all of us as good ore.

By Mr. SHELLABARGER:

Q. Which of the four openings was the lowest in richness?—A. The lowest in yield?

Q. Yes; in the richness of the ore; or can you tell?—A. I could hardly recollect. It rather strikes me that perhaps the Arrayan was less valuable; but they all were satisfactory.

Q. Now tell which of those mines you bought from Hardy, if that was the name, and which from Castillo?—A. The La Abra proper; the one on top of the mountain, that went down from the top of the mountain, was the La Abra mine proper; that we got from Hardy.

Q. That was priced in the purchase by itself, was it?—A. Yes.

Q. And that was \$22,000?—A. That was \$22,000.

Q. And was paid all of it in stock?—A. All of it in stock.

Q. Taken by Hardy?—A. Taken by Hardy.

Q. Then the other three; were they all bought of the Mexican named?—A. All of Mr. de Valle; Don Juan Castillo de Valle.

Q. And that was bought at what?—A. My recollection is \$50,000.

Q. And that was cash?—A. That was cash.

Q. All cash?—A. All cash, in gold.

Q. Now, where was the bargain closed? It is not necessary to go over the parties and process of negotiation, but where was the bargain closed as to each purchase—the La Abra and the other?—A. That was closed—it must have been closed by General Bartholow and I there conditionally.

Q. On what condition?—A. On the condition that our report was accepted and satisfactory, I suppose, to those gentlemen; that must have been the condition.

Q. So that you had a provisional contract when you left?—A. Yes, sir.

Q. And left Mr. Bartholow there?—A. I think so; that is about my recollection.

Q. Now, you went back to New York?—A. Yes, sir.

Q. Is there anything that you have not stated, either in your opening examination or now in this other examination, that is material as affecting the value of the mines, that you have not related, and if there is anything just tell us all about it, bearing upon, now mind, the value of the mines as to their prospect of yield?—A. I can only say we supposed they were all very valuable indeed—that it was a valuable estate, valuable property.

Q. That you have already related. There is no fact you know that bears upon their value that you have not already related?—A. Not that I recollect.

Q. What did you do, then, when you went back to New York first in regard to organizing? What was the first step you took?—A. When I got back to New York, Mr. Bartholow, as you know, was left there in Mazatlan. We called together these friends, the gentlemen who were then in New York, and submitted a report which was made by us jointly.

Q. Submitted a report in writing?—A. In writing, I think, and then supplemented by some statements of my own.

Q. That was submitted to what or whom?—A. Submitted to those gentlemen who proposed to form this company.

Q. You had been conferring together before your departure?—A. Oh yes.

Q. I say they were the same ones who had been conferring with you and who brought about your departure?—A. These were the same parties; yes, sir.

Q. Well, you submitted your report; submitted one in writing?—A. Yes, sir.

Q. Can that writing be produced, so far as you know?—A. I have not seen it since. It was among the papers probably of the organization, but I do not know that that was the case.

Q. Did the report contain a specific detailed statement of what you discovered as to the openings that we have been going over?—A. I think that is likely; it was a favorable report, so much so that—

Q. I mean it went into detail; did it go into details as to what you got out of this opening and that, and the result?—A. No doubt.

Q. Well, you carried back some of the ore there, didn't you?—A. I did.

Q. From all four, or only one or two?—A. I think from all the mines.

Q. Did you keep them separate?—A. I think so. I think they were put in papers and labeled.

Q. Weil, Colonel De Lagnel has spoken of getting a large specimen of you, if I recollect his testimony?—A. Yes; I recollect I had several specimens.

Q. Have you read over De Lagnel's testimony?—A. I glanced over it.

Q. Do you recollect a particularly attractive piece of ore he speaks of?—A. Yes, sir.

Q. What mine was it out of?—A. I do not remember as to that. We had a number.

Q. You can't answer as to which one?—A. I can not answer as to which particular one.

Q. Now, Mr. Garth, tell us whether there was any effort on your part, or on the part of anybody, so far as you know, to make a better showing by the exhibits made there of ore than were justified by the average condition of things in the openings; was it a selection of an accidental, an extraordinarily valuable specimen, or was it an average one, or what was it that you took there?—A. We tried to get an average one. I had no object in deceiving anybody.

Q. Well, you would be deceiving yourself as much as anybody else?—A. Yes, I had no object in making a speculation of this mine or putting any stock upon the market. Such a thing never occurred to us, at least it never occurred to me.

Q. Then what was the first combination or business organization that was formed either inchoate or choate?—A. These gentlemen thought favorably of the report; thought it was going to be a good operation, and agreed to subscribe. They asked me about what amount would do. I told them about what the thing would cost and about what we had estimated the machinery would cost to get it going there and in operation.

Q. Well, did that estimate include the cost of making this tunnel you spoke of that was to cut the four mines away down below where they had been worked to; did your estimate include that work, too?—A. Yes, I think that was included, too.

Q. And what did you make the estimate amount to?—A. The estimate that Bartholow and I had formed there would be about \$150,000 or \$160,000.

Q. And that was the one the organization adopted in New York?—A. Yes, sir.

Q. When you came to get up the first stock?—A. Yes, sir.

Q. Now you said there was an arrangement or a talk preliminary to an organization, about getting up a stock subscription?—A. Yes, sir.

Q. Was it got up—I mean now, Mr. Garth, before any incorporation or organization of the corporation—was there an actual stock subscription made in writing before the corporation was organized?—A. Oh, yes; there —

Q. At what time was that done; what month or what year?—A. It was done soon after I got back.

Q. When did you get back?—A. I got back, I think, in September; early in September.

Q. Of 1865?—A. Yes, sir; and this thing was laid before these gentlemen a day or two perhaps after I got back, or as soon as we could get them together. They were not poor.

Q. How much of that stock subscription that was made up in writing before any corporation—how much did it aggregate?—A. I think it was \$150,000 or \$160,000; more than \$150,000, I think.

Q. Was that subscribed in a book or separate sheet of paper?—A. On a paper, I think.

Q. It was not in one of our little pocket-books or any bound concern?—A. No, I think not. My recollection of it is it was sort of like a list of names.

Q. Was it subscribed—every man subscribed his name and put down the amount he would take?—A. Yes, sir.

Q. And where is that writing now; can we get that?—A. I have no knowledge of it.

Q. Where was it left?—A. It was left, I presume, when the company was finally organized; it was left with the papers of the company. I don't know.

Q. Well, you do not know from your personal knowledge. Was

George C. Collins on that list?—A. George C. Collins was on that list.

Q. How much was George C. Collins then worth, as near as you can tell his wealth?—A. He was among the largest tea importers in New York. I suppose the house of George C. Collins & Co. was worth a million dollars. I do not know.

Q. Then?—A. Yes, sir.

Q. He was a subscriber for how much?—A. I think he was \$5,000.

Q. Well, was William L. Brown down for any stock?—A. Yes, sir.

Q. What was he worth, as near as you can tell?—A. He was a rich man, or comparatively rich—not as riches are counted there now in New York, but he was a wealthy man.

Q. What was his business?—A. He was in the tobacco business—had been.

Q. In New York City?—A. Yes, sir.

Q. Is he still living?—A. He is still living.

Q. In New York?—A. No, sir.

Q. Where?—A. In Wheeling.

Q. Wheeling, W. Va.?—A. Yes, sir.

Q. Well, I did not ask you whether Mr. George C. Collins is still living or not?—A. Do you want to ask that?

Q. Yes. A. He is dead.

By the CHAIRMAN:

Q. Is Mr. Hardy living?—A. I think Mr. Hardy is dead. I have not seen him for many years.

By Mr. SHELLABARGER:

Q. When did he die?—A. I do not know.

Q. Where did he die?—A. He died in Missouri, I think, somewhere.

Q. He was a western man, was he, or did he come to New York?—A. He never lived in New York.

Q. Was he not president for a while?—A. He just came there.

Q. I mean to live?—A. Oh, no.

Q. Did he never come to stay so as to take charge of the business of this company when he was president?—A. Oh, Mr. Hardy; you are talking about Mr. Collins?

Q. Yes.—A. He was born there.

Q. Is Mr. Hardy the one you say is dead?—A. Yes, sir.

Q. George C. Collins, is he dead?—A. Yes, sir.

Q. Who was it you were talking about when you said he did not live there?—A. Hardy.

Q. Well, you got off the track or I did.—A. Well, I did not hear that.

Q. Now, Collins is dead; Hearn is living. Do you remember whether J. Wilcox Brown was one of the subscribers to the first list?—A. Yes, sir.

Q. He was?—A. Yes, sir.

Q. Well, who is he and what is his business?—A. He was a wealthy man; he was a man of means. I do not know what his business was; whether he was in any business or not.

Q. Do you know whether he is living or not?—A. I think he is.

Q. If living, where?—A. I think in Baltimore.

Q. How much did he subscribe in the first place?—A. I think \$10,000. I would not be positive.

Q. What would you estimate, if you had the means of estimating, his wealth at the time this scheme was organized?—A. I do not know.

He was esteemed to be a wealthy man—a quarter of a million or more, I suppose.

Q. What was his property in—real or personal or commercial, or what?—A. I think it was mainly in available assets—bonds and stocks, and perhaps some real estate. I do not know.

Q. John H. Garth, did he subscribe at that first subscription?—A. Yes, sir.

Q. How much?—A. I think \$5,000.

Q. Is he a brother of yours?—A. Yes, sir.

Q. Do you know what he was worth then?—A. He was a man in good circumstances.

Q. About what circumstances?—A. Well, I should say he was worth \$300,000 or more.

Q. Well, has he been as well off as that ever since, with the exception of what was lost in this concern?—A. I think so.

Q. Now your own name. Were you down on that first list?—A. Yes, sir.

Q. Is John H. Garth living?—A. Yes, sir.

Q. Where?—A. Missouri.

Q. What town?—A. Hannibal.

Q. Dabney O. Garth. Is that another brother?—A. No, sir; he was a distant relative of ours.

Q. Where did he live?—A. Missouri.

Q. What was he worth then?—A. I should judge he was worth a quarter of a million easily.

Q. What is he worth now?—A. He is dead—years ago. He was an old man then.

Q. Did he die well off?—A. I guess he left between a quarter and half a million dollars; I do not know; I have lost sight of him; he was a wealthy man.

Q. And Sidney Shackelford. Was he down on that first list?—A. Yes, sir.

Q. Where did he live?—A. He lived in Missouri.

Q. What town?—A. I think he lived in Glasgow.

Q. Do you know about his circumstances?—A. I know he was in good circumstances.

Q. About how much?—A. I do not know. He was well able to pay anything he put his name to.

Q. Is there a man by the name of J. Oswald Sweeney?—A. There was a man by the name of Sweeney; yes, sir.

Q. Was he down on that first list of subscribers?—A. Yes, sir.

Q. How much?—A. I do not remember now precisely, but it was a considerable amount. He was one among the large subscribers.

Q. I forgot to ask you about Dabney C. Garth and also Shackelford—how much they subscribed each? How much did they subscribe each, Dabney O. Garth and Shackelford?—A. I think Dabney O. Garth subscribed \$10,000—I would not be positive—and I think Shackelford \$5,000.

Q. And how much did Sweeney, or did you say?—A. I do not remember; it was from five to ten, perhaps; I do not know what it was. He was very able to pay either.

Q. And he was well off—wealthy?—A. Yes, sir.

Q. Where did he live?—A. He lived in Missouri.

Q. Well; there is Thomas J. Bartholow. Now what do you estimate his wealth at that time?—A. I do not know; he was well off, or claimed to be, and I supposed he was.

Q. How much did he subscribe, if at all?—A. I do not recollect now; it may be five or ten thousand dollars; I do not remember which.

Q. Is Sweeney living or dead?—A. I do not know; I have not seen or heard anything of him.

Q. Is Bartholow living or dead?—A. I understand he is dead.

Q. John D. Perry. Was he one of the original subscribers?—A. I think so. He was one of the subscribers, anyhow.

Q. How much?—A. I do not remember. Five thousand dollars, perhaps, or maybe more.

Q. What were his circumstances?—A. Said to be rich.

Q. Do you know whether he was or not?—A. I think he was; that is my opinion.

Q. What was his business?—A. Well, he was—I do not know but what he was railroading at that time.

Q. Was not he president of a bank?—A. Yes, sir; or at least connected with a bank.

Q. What bank?—A. I think it was Lewis Bartholow & Co.

Q. Was it a bank West or in New York?—A. In Saint Louis. It was not a national bank; it was a private banking institution.

Q. Is Perry living?—A. I think he is living—at last accounts.

By Mr. FOSTER:

Q. Where?—A. I think he is in Saint Louis.

By Mr. SHELLABARGER:

Q. There is Frederick Mead, or something like that. Do you remember him?—A. Yes, sir.

Q. Where did he live?—A. He lived in New York.

Q. What was his business?—A. I think he was a merchant.

Q. Wholesale or retail?—A. Wholesale.

Q. Is he living or dead?—A. I do not know; I have not seen him for years.

Q. How much did he subscribe?—A. I do not remember.

Q. How much was he worth in 1865 or 1866?—A. Said to be a rich man. I do not know what his circumstances were; unquestionably a wealthy man.

Q. Westray & Gibbs, marked commission merchants. Were they commission merchants?—A. I do not know; I believe so; they were friends of Mr. Collins. I did not know them particularly.

Q. Did you know their circumstances?—A. They were in comfortable circumstances I imagine; well off. Not as well off as Mr. Collins and these other rich people.

Q. How much did they subscribe?—A. I do not recollect; can not tell.

Q. Are they living; and, if so, where?—A. I think Mr. Westray is living in New York, and Mr. Gibbs I have not seen for years. He was the last time I saw him. He was an Englishman, but whether he is living now I do not know.

Q. George C. Chace?—A. I had not much acquaintance with Mr. Chace.

Q. Was he a subscriber?—A. I think he was.

Q. And can you tell how much he subscribed?—A. I do not remember.

Q. Where did he live?—A. He lived in New York.

Q. Living or dead?—A. I think he is living. I have not seen him, though, for some time.

Q. And you do not know his circumstances?—A. No, I do not. I expect he is comfortably off.

Q. S. F. Nuckolls?—A. He was about New York at the time.

Q. Did he subscribe?—A. Yes, sir.

Q. What were his circumstances?—A. Said to be well off.

Q. Do you know whether he is living or not?—A. I understand that he is not living.

Q. William H. Ross?—A. He was a friend of Mr. Hearn, a brother-in-law; he lived in Delaware.

Q. What place in Delaware?—A. He was, I believe, about Seaford. He is dead now.

Q. Did he subscribe?—A. Yes, sir; he subscribed.

Q. How much?—A. I do not remember; \$5,000 or more, I think.

Q. What were his circumstances?—A. He was well off—rich.

Q. I. V. Hardy; that is the one that owned that mine?—A. Yes, sir.

Q. Is he living?—A. I understand he is dead.

Q. Where did he die?—A. In Missouri.

Q. How much is his subscription; \$22,000?—A. I think that was the subscription.

Q. George Griffin; you have spoken of him; he went out with you, didn't he?—A. Yes, sir.

Q. How much did he subscribe?—A. I do not remember.

Q. What were his circumstances?—A. I do not know much about him. He had some money—he claimed to have some money, but how much I do not know. I suppose he was amply able to pay what he subscribed.

Q. That is the end of the list that has been handed to me by Mr. Ely. Do you know any other subscribers to the stock originally than those I have named over now?—A. There were some others, but I can not remember.

Mr. FOSTER. Judge, if you want to get at it there is a list presented by Mr. Collins, the president, filed.

Mr. SHELLABARGER. Where is it?

Mr. FOSTER. It is in this document, 103, page 299.

By Mr. SHELLABARGER:

Q. I have now gone over the principal stockholders that subscribed to the first list of subscriptions. State whether at that time—at the time these subscriptions were made—there was any incorporation yet.—A. I think not; I do not think there was any formal incorporation.

Q. Was there any contract of partnership or anything else except what would be made out by the fact of the subscription of stock; any other paper I mean—writing that bound you together—except the subscription books?—A. I think there was a sort of an agreement or inchoate corporation. It was not an incorporation, certainly, because that had to be done by the State, I think, but there was a mutual agreement.

Q. Where is that mutual agreement?—A. If it is in existence at all it is with the original papers, I imagine.

Q. You are not able to produce it?—A. No, sir.

Q. So far as you know it is with the rest of the papers?—A. It would be naturally so. I have no recollection of it otherwise.

Q. Can you state the substance of its contents; what it stipulated for; promised to do?—A. Well, it promised to go on and develop this mine out in Mexico as we had agreed to do.

Q. Did it agree to purchase the mines at the prices you named—\$22,000 and \$50,000?—A. Yes; that was the agreement.

Q. About how many of the stock subscribers we have gone over did in fact subscribe their names to that paper, as near as you can recollect, or did they all?—A. I think pretty much all; probably not at one time, though.

Q. No, but before the corporation was organized did they all, so far as you can recollect?—A. I think they all did, perhaps.

Q. Now, you said when the chairman asked you how much stock there was in the concern, you said about \$150,000 or \$160,000.—A. Yes, sir.

Q. Is that right?—A. Yes, sir; about that.

Q. And that was all paid up?—A. That was all paid up.

Q. Did you afterwards form a corporation, and if so, how—do you know now—an actual corporation under the laws of New York?—A. My recollection is that we had occasion to—we consulted Briton and Ely about it, and they looked at the paper and they said it was not a regular thing. “You will have to do differently; you will have to apply to New York and organize a regular corporation; this is nothing more than a kind of partnership affair,” and this firm were employed to draw up the papers and get the company regularly incorporated under the State of New York, as I now remember.

Q. Now, did you see the articles of association or incorporation that were filed under the laws of New York; did you see that yourself so that you can tell what was in it?—A. Yes, I think so. It was under the ordinary act.

Q. Very well, I want—A. I could not repeat it from memory or anything of that sort.

Q. Of course not, but I want to ask this: What amount of capital stock it provided for?

Senator DOLPH. Judge Shellabarger, I supposed the law must have required a copy of these articles to be filed in some office.

Mr. SHELLABARGER. I am coming to that.

Senator DOLPH. And I suppose that must be preserved; there must be a record of that.

Mr. SHELLABARGER. We will get it if it can be got.

Mr. LINES. It is here already.

Mr. SHELLABARGER. Where is it?

Mr. LINES. The certificate of incorporation.

By Mr. SHELLABARGER:

Q. I suppose they are filed with the secretary of state, are they not? How is it in New York?—A. Yes, they are filed in a public office there.

Mr. SHELLABARGER. You say it is in. If it is I will drop it.

Mr. LINES. If you will go on with your examination a moment I will hunt it up.

By Mr. SHELLABARGER:

Q. How much was the capital stock in that concern?—A. In that concern at that time \$300,000, according to my best recollection.

Q. Was that all paid up, or not?—A. I think not. I do not remember now of anything being paid up on the stock subscriptions than I have stated before.

Q. Do you think the stock subscriptions that were made to the corporation after it was organized were more or less than those we have gone over in detail that were subscribed before you made it a corporation?—A. I think it was the same. I do not think there was any increase. At that time it was not supposed that anything more was wanted.

Q. Who was the first president?—A. I think Mr. Hearn.

Q. Who was the next?—A. I believe Mr. Collins.

Q. Where were the disbursements made that were made in buying material and in paying off hands, and in a thousand and one things that had to be paid out; where were they, in fact, paid out, and where was the account thereof kept?—A. In Mexico, at Tayoltita, so far as I know and believe.

Q. Was there any of that kind of business done in New York at all?—A. None whatever; nothing of that sort ever was done there.

Q. Now, to what extent did your books in New York show the business, and what business did they show?—A. Well, they would show the subscriptions, the amount paid on subscription, and amount advanced to the company on account of these drafts of Bartholow, De Laguel, and others, if there were any others. That is all I know of.

Q. Well, they show the correspondence?—A. Oh, yes, the correspondence book.

Q. But showed the business, I mean; the votes, business, and meetings done by the board of directors or trustees?—A. Oh, yes; there ought to have been a record book of that. I suppose there was.

Q. Now, is there any other business that those books showed?—A. I can not conceive now of any.

Q. Well, it is not a question of conception; it is a question of what you know about it.—A. Well, I do not know of any.

Q. Have any of the books or papers that were kept at the hacienda, and belonged there as you have described, of business ever in New York within your knowledge?—A. Not within my knowledge at all.

Q. Did Exall, when he returned to New York early in 1868, report to you anything in regard to what had been done with the books and papers at the hacienda where he had left them; what he had done with them?—A. Just left them there, that is all.

Q. He told you that he reported.—A. He reported that he just went away and left everything.

Q. Now, I will ask about Exall's report, on which you have been extensively examined. I want to ask you whether he ever made any report either verbal or written at a meeting of a board of directors or stockholders—at a meeting that was convened for the purpose of hearing the report or for any other purpose. Now try to think whether Exall ever came before your board to make a report either written or unwritten?—A. I think he must have done so.

Q. Well, have you any recollection on the subject?—A. I have no recollection of it. I have no distinct recollection of the fact.

Q. When you speak of those reports of the trouble there and what caused him to go away, are you speaking about a report made to you as an individual by yourself or made in the presence of others or both ways?—A. It was both ways; made in the presence of Mr. Collins, I think. We must have had a meeting together.

Mr. FOSTER. We don't want your thoughts, we want what you know.

The WITNESS. I think there was a meeting and he was there and made statements, and made them perhaps to me and Mr. Collins individually.

By the CHAIRMAN:

Q. You say your best recollection. Do you mean you have any recollection of such a fact?—A. There must have been such a thing there, Senator.

Q. Who was present at the meeting?—A. Well, Mr. Collins was there

and Mr. Worthington was there, and I do not remember the names of the directors positively at that time, but whatever directors were members of the board at that time. Mr. Gibbs—I think he was there.

Q. Were you there?—A. I must have been there; yes, sir.

By Mr. SHELLABARGER :

Q. Now call your mind—let us be careful not to argue anything out from what would be probable, but call your mind back to the actual occasion, the room, the place. Is it your testimony when you are answering the Senator that these persons just named were there?—A. That is my recollection of it.

Q. Where was it?—A. It was at my room, my office, there in New York.

By the CHAIRMAN :

Q. When was it?—A. It was in the summer of 1867 or 1868.

By Mr. SHELLABARGER :

Q. Well, you know when it was he got back?—A. 1868 I mean. Yes, 1868.

Q. Well, he got back in the spring?—A. Yes; in the spring or summer.

Q. Well, it was in the spring, in May. You say that meeting did not occur until summer?—A. Well, some of them were away at the time, but as soon as we could get the directors together we held this meeting, and Mr. Exall was there and told his story.

Q. Well, if you can report or state in any more detail than you have already done, what he said there, you can state it, and if you can not I will not trouble you with any questions, because you have been asked a great many questions about what he said.—A. I can not state any further than I have already done.

Q. Now, did either of the superintendents there, either of the actual superintendents, or the man who acted last as superintendent, named Exall, did either of them, Bartholow, De Lagnel, or Exall, ever make to the company in New York what you would call ore reports, reports of the amount of ore gotten out and put on the patio?—A. There were no such reports made that I recollect.

Q. Never?—A. Never that I know of.

Q. De Lagnel's letter reports, and Bartholow's, I think, approximately, about what you had at the time, but I am asking, and that is what, I think, you are answering, about formal reports as such.—A. None, I believe, ever existed.

Q. I have asked you, I believe, what he said he had done with the books and papers. He said he left them there. That is right, is it?—A. Yes, sir.

Q. Exall, when he got back to New York?—A. Yes, sir.

Q. Did you ever know any of these papers that belonged and originated at the hacienda to come to New York?—A. Never knew that any ever came there, nor do not believe they ever did.

Q. Are you personally aware of the character in which Exall first went out, what his capacity was to be when he first went out, what relation he was to sustain to the business or to the superintendent?—A. He was sent out to assist De Lagnel. De Lagnel, as I understood from his letters, was in bad health. Exall was a young, hearty looking man, and seemed to be a single man and likely to be contented. De Lagnel was a married man, in poor health, and wanted to return.

Q. Was there any power given to him when he went out, or after-

wards at any time before he returned finally, any power of attorney or power in writing?—A. Not to my knowledge.

Q. Well, would you not have known it if there had been?—A. Certainly, I should think I would.

Q. What salary did you agree to pay him when he went out, if any?—A. I do not precisely remember.

Q. Well, do you remember whether his price was really fixed at all or not, or was that left open?—A. I think it was fixed. I think his salary for that first year was fixed.

Q. At what?—A. I think, if I mistake not, De Lagnel's salary was about \$2,000. I think that Exall's was not as much, was less.

Q. When you came to settle with him finally, when he came up there to New York and you paid him off, did you settle with him at the original agreed price or at some other price?—A. We did not settle with him at the amount he claimed.

Q. Yes; you stated that to the chairman; but what I wanted to know—you said you did not settle at what he claimed, and I see by his letters that he got up what he said himself was an extravagant claim. But that is not the question. The question is whether you settled with him at the salary, agreed price?—A. We must have settled with him the balance due him of salary at the agreed price, whatever that was, except perhaps, as I have stated, there might have been some difficulty in raising the whole of it and he accepted what we had there.

Q. Was that any great reduction of salary?—A. I do not think there was much reduction.

The CHAIRMAN. You say in his letters he made an extravagant claim?

Mr. SHELLABARGER. In his correspondence with Granger he says, "If I have to deal with the new company, I want to get out of them all I can; if with the old one, I must deal with them strictly."

Q. Was he continued in your employ at all by any new engagement or any recognition after he returned to New York?—A. He was not.

Q. Have you glanced over or read this correspondence that appears in this document, 274, a correspondence that purports to have passed between Exall and Granger; have you read it?—A. Is this the book?

Q. That is the book, page 92. The first letter is at the bottom of page 92. I will read a part of that letter to you, or if anybody cares to have it all read I will read it all.

MAZATLAN, March 15, 1866.

DEAR GRANGER: I wrote you by Rice, and said everything I thought necessary. Since writing, something else has transpired, which I think it best to post you on. On yesterday Bartning and I had another conversation in reference to the draft matter, but I gave him no satisfaction in the affair. He seemed particularly anxious for me to acknowledge the debt, and that the money had been used for the benefit of the company. His object in this is plain. He wants to get some hold on the company, which he has not now. I told him I would consult with Rolston in the matter, but of course Mr. R. will get nothing more from me than Mr. B.

In reference to the La Abra affairs, I think we will have to look to this country. The property can not be sold without legal authority from the company. This I think can get. Am induced to believe so by the company letters received. In fact, it would be difficult to get a purchaser without authority to sell. I am certain of being able to get some power from them, so as to enable us to secure ourselves. I will communicate with company from San Francisco, and, if best, will go on immediately to New York and return as soon as possible. Please keep everything in the best possible shape and secure, and by no means let my books be seen or known. It is to the interest of us both to do so; therefore I know you will act as I advise in the matter. I have been quite sick since being here, and at one time was afraid wouldn't be able to go up. Am now much better, and hope to be off to-morrow. The line is so arranged now that you can get from New York to Mazatlan in twenty days, so I will not be gone very long.

Please act prudently in this matter, and in a few months I think I will be able to put us both right. Be sure and write me by next steamer to San Francisco. I will make arrangements in San Francisco or elsewhere. Direct care of Weil & Co. You will get their number from the books. Hoping that you may get along all right, and that I will be soon again with you with means to satisfy ourselves,
I remain, your friend,

CHARLES H. EXALL.

Now, then, call your mind back to that period, if you please, Mr. Garth, and tell us whether you ever saw that letter, or saw its contents or knew anything about its contents, until you saw it in this print.—A. I never saw or heard of that letter or anything like it, or any correspondence that he had with Granger until I came here as a witness and saw it in this book.

Q. Then he writes one from San Francisco, dated April 7, 1868, page 95 of the House document we are using. Have you read that letter?—A. I do not think I have read it through. Shall I read it through?

Q. I want you to read enough to testify whether you ever saw it before or knew its contents before you saw it in print.—A. Shall I read it out?

Q. If you can testify without reading it out it is just as well. I wanted the other because of some things that are in it.—A. (After examining.) I have never seen or known of this letter until I saw and read it here in this book.

Q. Now read enough of the one that is on page 93, dated May 8, 1868, at New York, written by Exall to Granger, to state whether you ever saw that letter or heard from Exall or anybody else the matter he there details.—A. (After examining.) I never saw or heard of this letter before I saw it here.

The CHAIRMAN. Read the question again.

The stenographer read the question again, as follows:

Now read enough of the one that is on page 93, dated May 8, 1868, at New York, written by Exall to Granger, to state whether you ever saw that letter or heard from Exall or anybody else the matter he there details.

A. I never heard anything of this letter before I saw it here in print.

By the CHAIRMAN:

Q. Or the matters he therein details?—A. Nor the matters he therein details.

Q. I will read it to you so that it may go in the record:

NEW YORK, May 8, 1868.

DEAR GRANGER: Yours from Tayoltita of March 25 reached me day before yesterday. Was much pleased to hear from you and to know that you were getting along in some shape. I wrote you from San Francisco just previous to sailing from this point, giving you a statement of my doings while there; so no need of repetition. As I stated in my letter to you, I came by the Opposition route across the isthmus—Walker's old ground—and while crossing it I can safely say I had the damnest roughest time imaginable. It was awful low water in the small streams or rivers; heavy rains while on the journey; in water, pushing flats, etc., etc. It was an indescribable mean and rough trip. We were four days getting across; got pretty good sea steamer on this side; 27 days from San Francisco to N. Y. Of course, on the first day of my arrival here I saw nothing of the company. The day after I went down and saw Garth. Had a long talk concerning affairs, and, contrary to our expectations, gave me no satisfaction; didn't seem to intend to do anything more. I have seen him several times, but have got nothing from him of an encouraging nature. He seems disgusted with the enterprise, and, so far as regards himself, intends to do nothing more, or have nothing more to do with it. Well, I then went to one of the stockholders and directors, who talked a little better. It seems there is party here who has been after Garth, and this stockholder mentioned to sell the mines to a wealthy party who are now successfully mining in California. This party have been after this gentleman repeatedly, endeavoring to get them to sell the mines, etc., they

bearing all expense and giving the present company so much stock. This party are not now in New York. One of them has gone to hunt up De Lagnel to get all possible information concerning Tayoltita, etc. In addition the party will pay up all debts against the company. From what this director tells me, they seem in earnest. They are not aware of my arrival; have been written to informing them of the fact and I will probably be brought in contact with them before long. Now, as you and I are the principal creditors—I haven't been able to get a cent from them—"the company"—and the thing being in my hands, if this party intend buying, we can and will make a good thing out of it. Those of the company I have seen have turned the affairs over to me; so, in case anything can be done with this party, don't be afraid of your interests—all accounts at the mines are under my control—as yours will be looked to in conjunction with my own. All now depends in what can be done with this party, and more information concerning it I am unable to give until seeing them. I have informed the company that they shall do nothing until you and I were paid, which seemed satisfactory.

This will be mailed by steamer of 11th inst. If you do not hear from me by steamer of 21st, it will be on account of affairs not having been concluded. You may certainly expect a letter by mail of 1st June; hope previous to that time that I may have made satisfactory arrangements, etc. Just at this crisis it will be necessary to keep all secure at the mines. In my conversation with these gentlemen I will represent things in a secure state, if possible get prorogues on mines where times are expiring; keep them secure, if possible, in some way; don't be uneasy or spend a thought on Cullins or B's of Cal.; find out in a quiet way when and where you may dispose of the remaining property, but do not sell until you hear again from me. I hope to be able to make something for ourselves out of this thing—at present we are in the dark, but I will soon know something definite and will immediately write you. In case this party should purchase I will accompany them to the mines. You can extend Ariza's "Guarismey" privilege "if he wants it" another 3, 4, or 6 mos.; don't extend Guadalupe's more than a month at a time; do the best you can under the circumstances, using your own judgment, being guided to an extent by what I have written.

I am also sorry I sold Green Nelly; I think he is a damn rascal, and his company a fizzle. Get the mule, saddle, and bridle and cloths from Green. If the co. owe you anything make them pay. Green's draft was refused in Frisco and here. I inclose a note to him from the man the draft was drawn on, also one from myself.

I wish I could send you some means to get along with, knowing you must be having quite a rough time, but am unable. I expected to be paid up here; its not having been done plays the devil with my arrangements. Since my arrival here the weather has been exceedingly unpleasant; raining nearly all the time. N. Y. is exceedingly dull; business much depressed; the political state of affairs of course has everything to do with it. Johnson is not yet impeached, and heavy odds are bet in Washington against the impeachment. Many changes have taken place since I was here last. Old friends I left, book-keepers, clerks, etc., many are now doing business on their own accounts, but have a hard time of it on account of the state of affairs here. Tomorrow I intend to take a run down to old Va. to see my folks. My mother and a sister are in exceedingly ill health; expect to be gone from here only a few days. I have now written all that bears on the important subject with us. Would write more definite, but, as you see, I am now unable to do so. I will write immediately on receipt of news. Let me hear from you every opportunity, and direct via Acapulco, as they get here sooner than by Frisco. I will send this that way. My kind regards to Stone "Manuelitta"—I think that's the way to spell the name; Guadalupe's family generally; Cecilia and the Tayoltitians generally. How are you and Cecilia now? Hoping that this may find you well and getting enough to eat, I remain as ever, your friend,

CHARLES H. EXALL.

The contents of this keep to yourself.

I understand you to say that you never before heard of any of the matters stated in that letter.—A. That is what I assert.

By Mr. SHELLABARGER:

Q. You mean by your answer to the Senator that you never heard of the matters, or that you never heard of the contents of this letter?—A. I never heard of the contents of this letter.

Q. As a letter?—A. Yes, I mean that. This letter—I never knew anything about its existence. Until I came here and heard it read I did not know that he was in correspondence with Granger at all. It is news to me until I came here and saw this thing. I never read these letters.

Q. For instance, he says, near the beginning of the letter :

The day after I went down and saw Garth. Had a long talk concerning affairs, and, contrary to our expectations, gave me no satisfaction ; didn't seem to intend to do anything more. I have seen him several times, but have got nothing from him of an encouraging nature.

Did you hear of that ? Did he have those interviews with you ?—A. As I stated, judge, I tried to say that——

Q. How soon after his arrival ?—A. That is the day after, or two days after, or two weeks after, I don't know when he arrived there precisely ; but he did come down and have a talk as I have detailed ; that he was expelled from Mexico or came from Mexico and left things there, and talked about the amount due him, which was—I do not recollect his making any specific demand—but about the balance due him on the salary, and I told him I could not raise it all ; that we would do the best we could when the gentlemen that were in the directors and those of the friends of the company when I could see them ; we would make a contribution and try to pay the balance due him, but we did not employ him. He was no further in the employ of the company. I knew of no correspondence whatever with any other party that he had going on at the time ; never heard of it until I saw these letters.

By Mr. DOLPH :

Q. Did I understand you to say he had been expelled from Mexico and came from Mexico ?—A. He told me he had left Mexico because of the impossibility of conducting the business there with safety to his life, and with any hope of carrying it on, on account of the disturbances that he had been subjected to there, as I have tried to state over and over again.

By the CHAIRMAN :

Q. About the time that Exall appeared in New York had any party of gentlemen been endeavoring to get you to sell the mine, or making any offer for the mine ?—A. Did you ask me a question ?

Q. Yes ; I asked about the time that Exall arrived in New York. Was there a party of gentlemen making propositions to you in regard to the mines ; buying them or taking them off of your hands ?—A. I think not. I have no recollection of the fact.

Q. I thought you mentioned in the examination yesterday perhaps——A. Oh, that was some time subsequently. I do not know how long. There was some talk by a party, who seemed to be wanting to buy these mines or make some arrangement about it, but it was ascertained that he was of no account, and the whole thing was dropped—did not amount to anything.

Q. You say some time subsequent. Subsequent to what ?—A. It might have been about that time, but it was probably subsequent to this June or July or August. I do not know what it was of 1868.

Q. I would like for you to locate as well as you can the time which these gentlemen made this overture ?—A. There was not any gentlemen ; there was a man that probably came to my office once or twice and talked about going to Mexico to look at these mines or doing something with them, but there was nothing to him ; he was a dead-beat, and I did not pay any attention to it at all.

Q. Do you know his name ?—A. I have forgotten his name.

Q. Did you know him before that time ?—A. Never.

Q. How did you find out he was a dead-beat ?—A. Well, I inquired around there. He did not amount to anything.

Q. Did you know where he was from ?—A. No, sir.

Q. Was he representing himself only or some other person in connection with it?—A. The negotiation? There was not any negotiation about it.

Q. I did not ask about negotiations. I asked if he represented himself alone or represented others?—A. As far as I know, represented himself alone.

Q. Did he call frequently upon you about it?—A. No, sir; there was very little said.

Q. About how often did he call?—A. He may have been once or twice, perhaps twice.

Q. Did you converse with Exall about his proposition?—A. About what?

Q. About his proposition of taking the mines?—A. No, sir; I had no further talk with Exall in regard to it.

Q. You are certain you did not mention that to Exall?—A. I do not think I did; do not remember having done it.

Q. You do not know how he became possessed of the fact, then?—A. I do not. I do not know to what he alludes.

Q. Well, he alludes to this:

It seems there is a party here who has been after Garth and this stockholder mentioned to sell the mines to a wealthy party, who are now successfully mining in California.

A. I do not recollect any such transaction at all—any wealthy party in California at all.

Q. Well, you remember you state that somebody was?—A. Yes, I recollect there was a man came there once or twice and talked about it, but there was nothing in what he said.

Q. Well, this man was probably a stranger to Exall, was he not?—A. I do not know, sir; I have no knowledge.

Q. You don't know anything about that?—A. No, sir.

Q. Did you encourage the man at all?—A. I did not encourage him; I was disgusted with the whole thing. The thing had been abandoned, so far as I was concerned, and I was determined to have nothing more to do with it in the future.

Q. Did you express your disgust on that subject to Exall?—A. I do not know that I did.

Q. Do you know that you did not?—A. I did not with Exall—talk with him about any such scheme as this.

Q. Exall says here in your words that "he seemed disgusted with the enterprise."—A. Well, I was.

Q. Well that is one fact stated by Exall that you do know existed?—A. Well I have stated that as often and as clearly as I can to you.

Q. Well, but at that time you expressed to Exall disgust at the enterprise?—A. I express it to you or everybody else to Exall, I have to state that over and over again.

Q. Did you state that to Exall?—A. I do not remember. I state it to you now.

Q. I know; but did you state it to Exall?—A. I do not remember. If he asked me if I intended to have anything to do with it I would be very apt to state I would not. I did not intend, so far as I was concerned, to have anything more to do with it.

Q. Well, this letter seems to describe it accurately?—A. Yes.

Q. What I want to know is whether he got that information from conversation with you, from expressions that you gave to him?—A. I can talk no more about that than I have tried to say to you—

Q. Well, it is very easy for you to answer that question; to say whether you informed Exall of your disgust and determination not to go any further with the operations out there?—**A.** After he had come back to New York?

Q. Yes; and had conversations there with you?—**A.** I unquestionably told him I would never have anything more to do with the enterprise; have said so all along over and over again; have told him and everybody else that came there I would not have anything else to do with it.

By Mr. SHELLABARGER:

Q. I want to show whether there is anything in this letter that refreshes your memory of an experimental attempt there to make a sale of the mine. He says, in addition to what the Senator has just read to you:

This party have been after this gentleman repeatedly, endeavoring to get them to sell.

That is, a party that had been after Garth "endeavoring to get them to sell the mines" to a wealthy party who are now "successfully mining in California." Was there any such communication made to you that you can now recall, of somebody that was "successfully mining in California" that they were endeavoring to get to buy the mine?—**A.** (Reading:) "This party have been after this gentleman repeatedly." What gentleman is that he alludes to?

Mr. McDONALD. The members of the company.

The WITNESS (reading):

Endeavoring to get them to sell the mines, etc., they bearing all expense and giving the present company so much stock. This party are not now in New York.

I do not know of any such thing at all.

By Mr. SHELLABARGER:

Q. (Reading):

One of them has gone to hunt up De Lagnel to get all possible information concerning Tayoltita, etc.

Do you remember any such circumstance as that now—going to hunt him in connection with the idea of purchase or otherwise?—**A.** Not to my knowledge.

Q. Now, the letter of the 15th of June, 1868, is on page 94. This letter I think I had better read:

NEW YORK, June 15, 1868.

DEAR GRANGER: In my letter written in May I informed you of the possibility of my being able to do something with the Abra affairs through other parties. (The old company manifest the utmost indifference regarding or in reference to everything belonging to or connected with their affairs in Mexico, and have virtually given everything into my hands.)

Now I want to stop right there. Had you given everything into his hands, or the directors, as far as you know?—**A.** As far as I know, there had been no such authority given him.

Q. Was there anything of that kind or in that direction?—**A.** Nothing in that direction that I know of.

Q. Was there any solicitation by Exall that these things should be handed over to him?—**A.** Not that I know of.

By the CHAIRMAN:

Q. Was there any re-organization of the La Abra Company?—**A.** No, sir; not to my knowledge.

Q. Was there no old company nor new company then?—**A.** No.

By Mr. SHELLABARGER:

Q. (Reading:)

I also informed you I would communicate with you by mail of the 1st of June, giving you something definite. This I was unable to do, which will show to you by reasons which I will give. After my arrival here I was informed that some parties had been here consulting with one of the stockholders in reference to purchasing their affairs in Tayoltita. This party on my arrival was in Philadelphia, so I was unable to see them.

Now, did you know anything about that party that was on his arrival in Philadelphia, etc.?—A. I know nothing about any application for the purchase of the mine. The only party that I have spoken of—I do not remember whether it was previous to Exall's return or after that this man came to me. He came to me and talked about buying the mines, or making some arrangement with them, or something of that sort, and I found there was nothing to him and just dismissed it.

By Mr. LINES:

Q. Was he an American or a Mexican?—A. I think he was a native American. At least I judge so from his appearance and talk. He was not certainly a Spaniard or foreigner.

By Mr. SHELLABARGER:

Q. Now I read on (reading):

After remaining here some eight or ten days awaiting them, I went to Virginia; remained there some days, when I was informed of the arrival in N. Y. of the parties above mentioned. I hurried on immediately; it was then too late to write by 1st of June mail. Since being here I have seen these people daily, and have given them every information which would tend to make them think favorably of the property—giving statements, accounts, inventories, indebtedness, etc., etc., besides speaking as favorably of the property as possible.

Now, who were those people that he was negotiating with?—A. I do not know, sir; I have no knowledge of it at all.

Q. Did you ever hear of it before you saw it in print here?—A. I do not recollect of ever hearing of it or knowing of it before I saw it in print here.

Q. (Reading:)

The prime mover in the affair is a man who knows a good deal concerning the property, and who expects (if he succeeds in organizing a co.) to get a position at the mines.

Do you know who that man was?—A. I do not.

Q. That is, had a good deal of experience?—A. No.

Q. You do not know?—A. No.

Q. (Reading:)

This man has friends who live here and in Philadelphia; he is trying to induce them to enter into the enterprise and form a co., and, from what I gather from him, he has to an extent succeeded, but has not yet come to final terms.

Do you know anything about that?—A. I do not.

Q. (Reading:)

The proposition of this co. that is to be formed is to pay off you and I to start with, and give a certain interest to the old co. (The old company refuse to pay us our dues, and we are totally unable to recover anything from them.) I have given these parties a condensed summary of accounts of La Abra S. M. Co. I enclose a copy. You will see it does not accord with the books, but I gave it this way, as requested by the party who is endeavoring to start the co. An inventory of stock, as nearly as I could recollect, endeavoring not to go over the amount which I supposed on hand. I enclosed a copy—liabilities, also inventory of tools and material, as given by De Lagnel in Apl., 1867. The one I gave them is a copy of the one De Lagnel brought home with him, and of which you have copy at hacienda. It is exactly like his, with these exceptions: One silver-mounted saddle, \$35; 3 Cal. saddles, \$30; and in place of 10 mules @ \$600, I put 4 @

\$60=\$240. With exceptions, it is exactly like the list De Lagnel brought on. My object in leaving these items out was on account of some not being there, and others for own uses, which I will hereafter mention. I do not send a copy of this last list, as there is or was one at the hacienda. It is necessary, as near as possible, that, in event of this party taking hold of the works, these things should be there as represented, and show for themselves in event of parties being sent out to investigate. The mine which they think most of and will work, and on which the company is formed, "if it is formed," is the La Abra. So you see the great necessity of keeping that mine, as well as the rest, protected. Use your best judgment in affairs, then, keeping things in such shape as will advance the interest of affairs. Make the inducement as great as possible to induce parties to take hold; and in case any one should be sent out, or you written to, let your statements correspond with mine as regards stock. If possible, let them go beyond mine. The indebtedness of the co. to us I have represented to these parties as being to Jas. Granger, \$2,850; to C. H. Exall, \$5,113.32; Bank of Cal., \$5,000. The statement regarding your account and mine, as represented, is over and above any and everything which we have gotten from the co. To be a greater inducement to these parties to purchase, and let them see I had confidence in the mines, at their request I have agreed to take in stock to the amount of \$2,000, and have taken upon myself to act for you to the extent in stock of \$850. This, I hope, will meet with your approval. Should anything occur, let your statements occur with mine. These parties leave for Philadelphia in a day or two, and will be able to report definitely in a week or two, when I will write you immediately, giving you all points in detail. I should not like these parties to come in contact with Green, Martin, or any one who would prejudice them, etc. If we can succeed, as I have stated here, we will be doing well as things are situated. Send me, as soon as possible, power to act for you. I can imagine your feelings away out in that damned gloomy place, and truly sympathize with you, and doing all in my power to get you away as soon as possible. Affairs here are very dull, little business doing. My health has been very much shaken since coming; suppose it results in change of climate; the weather has been, since my arrival, so damp, rainy, and disagreeable. Please do, as far as in your power, as I have suggested. The books don't let any one see, for reason which will occur to you. My kind regards to Mr. Sloan. De Lagnel is at Fort Hamilton. I have not seen him; understand he will study divinity; don't know with what truth the report. Be assured you shall hear from me at the earliest moment. Kind regards to all. With best wishes and kindest feelings to yourself, I remain your friend,

CHARLES H. EXALL.

Q. Did you ever see that letter before you saw it in print?—A. Never.

Q. Did you ever hear of the existence of such a letter as that?—A. Never.

Q. What do you know about the efforts to make the sale that he there represents—gives those precautions and directions in regard to? So far as you know had you or the directors had anything to do with that scheme there described?—A. Nothing that I know or believe or recollect of at all. It is a thing unknown to me.

Q. Look at that letter, without reading it, of the 18th of July, by Exall, on pages 95 and 96, and state whether you ever saw that before you saw it in print?—A. I have no knowledge of these letters at all or their contents; never saw them or knew of their being in existence until I saw them in print here.

By Senator DOLPH:

Q. Who was the other stockholder or officer of the company to whom this party that was talking about buying the mines conversed?—A. I do not remember any such party.

Q. I thought you had stated that this party had not only talked with you, but some other officer of the company?—A. I do not know that I did. If he did, it was probably Mr. Worthington or Mr. Collins. I do not remember now.

Q. What other officers were in the city at the time of Exall's return?—A. A quorum there; Mr. Collins, Mr. Worthington, Mr. Gibbs, and myself; I do not recollect. There was probably another there at that time who was a director to form a quorum.

Q. Really, without an order of the board, who would have been the proper party to have seen in regard to such a transaction, the president, the secretary, the president and secretary, or yourself?—A. I should think the president would have been the proper officer.

Q. Was he taking any more interest in the affairs of the company than you, or was he quite as much disgusted as yourself?—A. Well, I expect he was pretty well disgusted with it.

Q. Was he paying any attention to the affairs of the company?—A. I do not think particularly. He was a man that had a large business to do, and did a large business.

Q. How was it with Mr. Gibbs?—A. Mr. Gibbs was a tea man also; not of the wealth of Mr. Collins at all, but, as far as I know, in good circumstances, and a decent man.

By Mr. McDONALD:

Q. Mr. Garth, in that printed document containing what purports to be a correspondence between the representatives of the La Abra Mining Company in Mexico and yourself, as treasurer of the company in New York, state, if you can, about how many letters, or few, you wrote to Mr. Bartholow, who was left there first as superintendent. I see his letters to you begin in February, 1866, on page 8, and end on April 10, 1866, on page 24. I find no other letter from him to you. There are other documents that purport to be from him, but no other letter to you. Now, during that period, about how many letters were written by you to Mr. Bartholow?—A. How many letters do you find from Bartholow to me?

Q. Well, I am not counting the number, but they are to be found between pages 8 and 24.—A. You ask me how many letters I wrote Bartholow—

Q. How many can you say now, during the period he was there in charge, that you wrote to him in reference to the business of the company?—A. Oh, I wrote regularly every mail. I have no sort of doubt about that—that I wrote frequently to him.

By the CHAIRMAN:

Q. You mean every steamer, do you not?—A. Yes, sir; the mails were very irregular.

By Mr. McDONALD:

Q. Can you recall now about how many steamers there were per month, and about what time they went out?—A. I do not remember now whether there were three a month or two a month, and sometimes they might have missed, but in that beginning, unquestionably, I must have written to him very frequently. I did, in fact; I know.

Q. Well, Mr. De Lagnel's letters to you begin on the close of Mr. Bartholow's service. The first I find dated July 6, 1866, page 39, and the last I find is dated February 5, 1867, covering a period extending from July, 1866, to February, 1867. Now, from May, 1866, to February, 1867, about how frequently did you write to him?—A. I must have written to him very frequently—every time a steamer sailed; and I certainly replied to the letters he wrote to me.

Q. At what time when Mr. De Lagnel left there did he make his appearance in New York; how long after he left there?—A. It must have been more than a year.

Q. Before you saw him?—A. From the time he left New York until the time he got back.

Q. I am asking about the time when he left Exall in charge; after he

quit the service of the company, in 1867, how soon did he come to New York?—A. I do not know what time he left. I do not remember that. I have no way of fixing what time he left Tayoltita or Mazatlan. It would take him about a month to get there, or more. It depends on how he came. If he went to San Francisco he might have been delayed.

Q. You will find a letter on page 72 from Exall, perhaps the first one he wrote you after he succeeded De Lagnel, in which he says:

Yours of the 24th April was received some days previous to the departure of Col. De L., who will no doubt reach N. Y. some time prior to the reception of this.

Now, that is May 6; can you tell by recurring to that about what time Colonel De Lagnel came to New York after leaving the business and works there and giving up his position as superintendent?—A. I should judge it would be some time in June, probably. It depends on how he struck the steamer. It might be delayed ten days, or if he struck it about the time of sailing it would be a shorter time. He might be detained in San Francisco some days, maybe a week, before a steamer would sail for New York.

By the CHAIRMAN:

Q. Let me ask a question about these letters of De Lagnel. De Lagnel responded promptly to your letters?—A. I have no sort of doubt about it.

Q. Did he acknowledge the receipt of them?—A. Unquestionably. He was an Army officer, a trained West Point man, and very much of a business man, so far as that was concerned.

By Mr. McDONALD:

Q. Mr. Exall continued his correspondence down to the time he left the mines for New York, which was, according to these dates, somewhere about the 15th of March, 1868. From May, 1867, to March, 1868, how frequently did you correspond with him in regard to the property; during that period of nearly a year from May, 1867, to March, 1868?—A. I corresponded probably as often as the opportunities for mail afforded, or if there was anything necessary.

Q. There has been presented for your inspection, and identified by your eight letters written by you to him there as follows: May 10, May 20, May 30, June 10, July 10, July 20, August 10, October 10, 1867. I want to ask you if these are the only letters, these eight that have been exhibited to you, that you wrote to Exall on the subject of these mines during that year or nearly a year.—A. I think not.

By Mr. McDONALD:

Q. Now, can you remember whether, when De Lagnel reached New York, he gave the company a report of his stewardship while he was out there, and the condition in which he left matters when he went away?—A. I have no distinct recollection of that. The particulars are not impressed upon my mind. I think it is probable he did, but I don't know; I don't remember.

Q. Well, now, Mr. Exall seems to have commenced a correspondence with you as representative of your mining interest in May, 1867, and to have continued it on down to the time that he left?

Mr. SHELLABARGER. There is a letter there on the top of page 89, from Garth to Exall, that says that De Lagnel has arrived; that is May 30, and in the preceding letter he says he has not arrived, which is May 20, so that he must have arrived between the 20th of May and the 30th of May.

Q. You wrote others?—A. Oh, yes.

Q. What is your best belief on that subject?—**A.** I think I wrote others.

By the CHAIRMAN:

Q. Have you any recollection?—**A.** I have no distinct recollection of writing any particular letter.

By Mr. McDONALD:

Q. The last of these letters seems to have been written on the 10th of October, 1867, preceding his leaving Mexico. What is your recollection as to whether you wrote letters after that to him?—**A.** I think I did.

By the CHAIRMAN:

Q. After the 10th of October?—**A.** After the 10th of October.

By Mr. McDONALD:

Q. In the letters submitted here there is a space of two months from that letter and the one bearing date previous to it, the 10th of August, 1867; do you think there are two months in that time that you wrote nothing?—**A.** I think not; I think there were letters written, perhaps, every mail and every month; that is my best recollection.

By the CHAIRMAN:

Q. You say your "best recollection." Do you recollect you wrote any letter between the 10th of October and the 10th of August, not guessing at it or supposing it?—**A.** It is my best recollection that I did.

Q. Well, do you have any recollection that you did?—**A.** I have nothing now to recall the actual fact to my mind except the fact that in this correspondence I availed myself of the opportunity of writing these parties, I think, certainly every month, and generally, by every steamer.

Q. Do you mean now to Exall?—**A.** To Exall, to De Lagnel, to Bartholow, while they were there, and to Exall as well as the rest.

By Mr. McDONALD:

Q. Now, Mr. Garth, take this book [handing witness press copy-book]; that purports to be the letter-book kept at the works there in Mexico, and point how many letters there are in there that are on pages that are not numbered and that do not correspond with the numbers of the book itself; what letters those are; to whom they are, and where they purport to be written, if any?

Mr. FOSTER. The book itself shows that.

Mr. McDONALD. Well, I want his testimony.

Mr. FOSTER. Are you examining him as an expert? De Lagnel has stated it, if you are examining him as an expert.

Mr. SHELLABARGER. No; it is a question of fact.

Mr. McDONALD. It is a book we submit to him; first, for identification, and second—

The WITNESS. Did I understand you to ask what letters were directed to me?

By Mr. McDONALD:

Q. No, no; what letters you find there between the numbered pages put in there that did not originally belong to the book; state between what pages they are and the date of them, where written, by whom, and to whom?—**A.** (Examining book.) Here is one between pages 80 and 81 dated Mazatlan, June 16, 1866, to Edward H. Parker, San Francisco, signed by J. A. De Lagnel.

By the CHAIRMAN:

Q. Is that in De Lagnel's handwriting?—A. I think it is, though it is very indistinct. Then here is another dated at Mazatlan, June 16, 1866, to W. C. Ralston, cashier, Bank of California, San Francisco, between pages 80 and 81, by J. A. De Lagnel. Here is another dated at the same place, Mazatlan, Mexico, June 16, 1866 (the first name is pasted up; I can not read it), to Brodie & Co., San Francisco, signed by J. A. De Lagnel. Here is one between pages 80 and 81 dated Mazatlan, June 16, 1866, to Weaver, Wooster & Co., San Francisco, signed J. A. De Lagnel. Here is one between pages 98 and 99. It is very indistinct. It is directed to D. J. Garth, New York.

By Mr. McDONALD:

Q. Where is it written?—A. I am not able to decipher this. It is very faint. It is signed De Lagnel.

The CHAIRMAN. Judge McDonald, let me interrupt you just a moment.

Q. (Handing witness the printed book.) Look over that, which purports to be a copy of the letter you are examining, and see whether you got that letter from De Lagnel?

Mr. FOSTER. What is the date of it?

Mr. McDONALD. It is dated August 16, 1866, in this printed copy.

By Mr. McDONALD:

Q. The question is whether you remember of receiving a letter of that purport?—A. Yes, sir; I remember receiving a letter of that purport, if this is a copy of that.

By Mr. SHELLABARGER:

Q. You are testifying about the one in the book?—A. This is so indistinct, but I take it for granted that it is a copy.

By Mr. McDONALD:

Q. Now, then, the next one. You say you can not make that out, the one in the book?—A. I can not read it, it is so indistinct. The next one is between the same pages. It must be a continuation of the same letter. The next one, between pages 98 and 99, is this: Mazatlan, August 16, 1866. It is to Pfeiffer, San Francisco, signed by De Lagnel. The next is Mazatlan, August 16, 1866, from De Lagnel to Messrs. Weil & Co., San Francisco, Cal., between the same pages. Here is another, Mazatlan, August 16, 1866, to Stoud at San Francisco, Cal., between the same pages. Then Mazatlan, August 16, 1866. It is so indistinct that I can not recognize the address from the book, from J. A. De Lagnel, between the same pages. The next one is Mazatlan, August 16, 1866, signed by De Lagnel, to W. C. Ralston.

By the CHAIRMAN:

Q. Before leaving that letter of the 16th of August, addressed to Taylor, it purports to inclose a telegram to you, No. 18, New street, New York, as follows:

Fifth (5th) assessment one dollar per share, on Guadalupe stock, payable immediately. If desired please pay by transfer.

Did you pay any assessments on Guadalupe stock?—A. We did in New York; yes, sir.

Q. Do you recollect how many you paid?—A. I don't have any recollection now.

Q. This seems to be the fifth assessment; had you paid up always to that time?—A. I suppose so.

Q. A dollar a share it is; was there any more than a dollar a share assessed at any one time?—A. I don't recollect whether there was.

By Mr. McDONALD:

Q. That stock was not in this combination, was it?—A. No; it was a stock that Mr. De Valle put in.

By the CHAEMAN:

Q. Transferred to your company?—A. Yes, sir.

Q. Part of the purchase; and you had to begin on paid-up assessments of stock.—A. I don't know about paid-up stock. It was not the way of doing things out in California. Whether stock is paid up or not they assess you.

Q. In Mexico, you mean, or California?—A. Well this appears to have been a California stock.

Q. The Guadalupe mine was in California, then?—A. No; it was in Mexico, but it was organized probably in San Francisco.

Q. A California corporation?—A. Yes; so I understand.

By Mr. DOLPH:

Q. Did you pay any more than five assessments?—A. I don't recollect.

Q. How many shares were there, or do you recollect what the assessments amounted to?—A. He says here, I suppose. I don't recollect now.

Q. What does he say there about the amount of the assessment?

Mr. FOSTER. The amount is not given; \$1 a share.

By Mr. DOLPH:

Q. Can you state whether the assessments amounted to something over \$550; was it not?—A. It was something like that; I don't remember now.

By Mr. McDONALD:

Q. Can you find any others at that point?—A. No, sir; none.

Q. Well, go on to the next insertion.—A. Between pages 124 and 125 are the following: Mazatlan, 17th November, 1866, to A. Stoud, San Francisco, signed by J. A. De Lagnel; Mazatlan, 18th November, 1866, to Weil & Co., San Francisco, by J. A. De Lagnel.

By Mr. SHELLABARGER:

Q. Does it say "Weil & Co., San Francisco"?—A. No, sir; it does not. It is "Weil & Co." I know as a fact though that it is a firm there. November 18, 1866, Mr. Mills, California, signed by J. A. De Lagnel. On the same day, Mazatlan, 18th November, 1866, W. C. Ralston, esq., cashier Bank of California, San Francisco, signed J. A. De Lagnel.

By Mr. McDONALD:

Q. Do you find any more at that place?—A. No, sir; 125 comes in here.

Q. Do you find one to yourself 17th of November, 1866?—A. I find one Mazatlan, 17th of November, 1866, to myself, D. J. Garth, at New York by J. A. De Lagnel.

By Mr. SHELLABARGER:

Q. Do those come in order of paging; does that last one, the one of the 17th of November, 1866, Mazatlan to Garth, come in the order of

the paging before or after those you have just given dated the 18th of November that are pasted in?—A. That is 125 to 126.

By Mr. DOLPH:

Q. There are several letters between those two pages then?—A. Yes, sir.

Q. Those at Mazatlan appear to have been divided instead of being between 124 and 125; part between 125 and 126, so as not to be on the same stub?—A. I suppose so.

Q. Is that the fact; just examine it and see?—A. That is the fact.

Q. Several letters in each place?—A. Yes, sir. This letter, Mazatlan, 17th of November, 1866, is a letter of 8 pages, between 125 and 126, from J. A. De Lagnel to D. J. Garth.

Q. Have you read the printed copy of that letter?—A. I don't remember doing so.

Q. Well, read just sufficiently to state whether you remember having received it?—A. No, sir; I do not.

Q. I wish then, as we pass, you would look at that printed copy and state whether you recollect having received that letter.—A. I recognize it by the fact that he drew upon me for \$7,000, and the fact that it was paid.

Q. So you are able to state that you received that letter?—A. Yes, sir; I am able to state from that fact. I recollect that draft was paid.

By Mr. McDONALD:

Q. Well, that is in answer to five letters received by him?—A. Yes; his letter says it is in answer to them all. Between pages 136 and 137 I find the following: Mazatlan, December 31, 1866, to G. F. Nolte, Cosula, from J. A. De Lagnel. Mazatlan, dated 5th January, 1867, to D. J. Garth, by J. A. De Lagnel.

By Mr. DOLPH:

Q. Do you recollect receiving that letter?—A. I would have to look it over perhaps before I could say (after reading it); yes, I know I received that letter.

By Mr. McDONALD:

Q. Following that, do you find one of January 5?—A. Mazatlan, Mexico, 5 January, 1867; to William C. Ralston, cashier, Bank of California, by De Lagnel.

Q. Between the same pages?—A. Yes, between 136 and 137.

Q. Do you find any other of the same date to the same person?—A. Another of the same date to the same person.

By Mr. SHELLABARGER:

Q. Between the same pages?—A. And between the same pages; yes, sir. Between 144 and 145 I find the following: Mazatlan, 5th February, 1867; W. C. Ralston, cashier, Bank of California, by J. A. De Lagnel; and one of the same date, from the same place, to D. J. Garth, New York, by De Lagnel.

By Mr. DOLPH:

Q. Do you recognize that letter; do you remember having received it?—A. (After reading it.) Yes I recognize that letter.

By Mr. McDONALD:

Q. Well, pass on to the next.—A. Between pages 152 and 153 I find this: Mazatlan, April 16, 1867; William C. Ralston by J. A. De Lagnel. I recognize that.

Q. What do you mean to say, by saying you recognize that? I will ask you whether or not all these letters referred to as having been written by De Lagnel are in his handwriting?—A. I am satisfied that they are, except where they are so indistinct that I can not make them out.

Q. Let me understand; you have no more doubt about the balance of these letters that are illegible, which purport to have been written by Mr. De Lagnel at Mazatlan, than this one you now speak of to Ralston, have you?—A. No; I think not. Between pages 156 and 157 are the following—well, these are so indistinct that I do not recognize them at all.

Q. Can not you say to whom they appear to be addressed—the signature and date?—A. Mazatlan, May 17, 1867, and it appears to be directed to me, signed by C. H. Exall.

Q. Do you recognize the signature?—A. I could not identify this as an expert; it is very indistinct.

Q. Is the signature indistinct, too?—A. No, sir; not very indistinct; you can see for yourself.

Q. Well, my seeing would not put anything on the record.—A. Well, I can not; but it is signed C. H. Exall.

Mr. FOSTER. It is one of the letters he acknowledged he received.

Mr. McDONALD. He acknowledged it.

The WITNESS. If I acknowledged it, it was received. "Mazatlan, June 13, 1867; W. C. Ralston, cashier Bank of California," written by C. H. Exall; "June 11, 1867; D. J. Garth," by C. H. Exall.

Mr. SHELLABARGER. That one is acknowledged by you.

The WITNESS. Well, if that is acknowledged, it will save time. Between pages 171 and 172, I find the following: "Mazatlan, August 5, 1867; D. J. Garth," by Charles H. Exall.

By Mr. DOLPH:

Q. Is that legible?—A. Pretty legible.

Q. Does it appear to be in Mr. Exall's handwriting?—A. It is pretty plain; I should think so; I acknowledge it, anyhow. Between 172 and 173 here is one letter, "Mazatlan," dated October 6, 1867, to D. J. Garth, of New York, by Charles H. Exall.

Q. Is that legible?—A. Partially so; pretty legible. It looks like a much better handwriting than his; I have no recollection of having received this letter.

By Mr. McDONALD:

Q. That letter?—A. Yes, sir.

Q. How does it seem to be inserted there?—A. It is pasted together considerably.

Q. Are there two pages pasted together?—A. It appears so; I think so.

By Mr. SHELLABARGER:

Q. Is not the last page of the letter of the 6th of October, signed by Charles H. Exall, pasted fast to page No. 173?—A. Yes, sir.

By Mr. McDONALD:

Q. It is pasted to one of the regular pages of the letter-book?—A. Yes, sir.

By Mr. SHELLABARGER:

Q. Is 172 missing?—A. No; here is 172.

By Mr. DOLPH:

Q. There is no page, so far as you have discovered, missing at all, is there?

Mr. McDONALD. Yes; 77 and 154 are out.

Mr. DOLPH. I am asking the witness if he has discovered any place where the pages of the book were not consecutive?—A. I have not; I have not got that far. This is the first time I have had this book in my possession.

Q. Well, I am only asking you what you discovered so far?—A. So far in this examination I have not. Between page 176 and 177 is the following: Mazatlan, November 17, 1867; to D. J. Garth, New York, and signed by Charles H. Exall. The next is (hesitating)——

By Mr. McDONALD:

Q. Is it December 18?—A. I don't know. My eyesight is not as good as it was twenty years ago. I can see that is Mazatlan, D. J. Garth; the date is illegible. It is signed by Charles H. Exall.

By Mr. DOLPH:

Q. What is the date on the numbered page preceding that of the last letter?—A. November 8, on page 176.

Q. Now, is there another inserted letter there after the one to Garth that you have referred to of which the date is illegible?—A. Yes, sir.

Q. What is the date of that just preceding the one the date of which you can not make out?—A. Mazatlan, November 17.

Q. Now, is the next letter after that the one you are unable to make out the date of?—A. Yes, sir.

Q. Now, what is the one following that?—A. November 26, 1867.

Q. Where is that written?—A. That is to O. Gefe, Politico del Partido.

Mr. FOSTER. This print is not entirely accurate. For instance, the date of that letter is very plain here but is left off, does not appear in the print at all.

The WITNESS. Between page 187 and 188 is: Mazatlan, January 24, 1868; to D. J. Garth; signed Charles H. Exall. There are two leaves pasted together and very indistinct.

By Senator DOLPH:

Q. Two leaves pasted together, but the letter itself is on the front of the page and the other the back of the page?—A. I think so.

Q. So that the two pages of the book are pasted together?—A. Yes, sir.

By Mr. McDONALD:

Q. I understood you in your examination-in-chief that that letter you have no recollection at all of receiving?—A. You did not ask me anything about that.

By Mr. SHELLABARGER:

Q. Well, what is the fact?—A. I have no recollection. You did not ask me that question.

By Mr. McDONALD:

Q. I wanted simply to identify that as the letter to which your attention has been called.—A. Yes, sir; I have no recollection of receiving it.

By Mr. SHELLABARGER:

Q. Are there any numbers on this letter—any book numbering?—A. No, sir; that is a pasted-in letter.

By Mr. DOLPH:

Q. Now, that last letter you referred to, is that in the handwriting of

Mr. Exall, or are you able to state about that?—A. I don't know. As I said from the beginning, I could not swear to Mr. Exall's handwriting. I never knew him before he went there, and never knew him afterward.

Q. Does it appear to be in the same handwriting of those letters you have recognized?—A. As far as I see it appears to be.

Q. All these letters that appear to be inserted appear to have been written away from the hacienda, do they not?—A. I think so.

Q. Are they all on the ordinary press letter paper—do they all purport to be press copies?—A. They are purported to be press copies.

Q. Taken on paper without the pages being numbered?—A. I presume so.

Q. Are they inserted, except those whose dates you can not make out, in the order of dates, between the letters that are found on the regular pages of the letter-book?—A. I have not noticed particularly; I think so.

Q. And paper of the same size and character?—A. Not precisely so.

Q. Very nearly the same, or is it not; what is the fact?—A. Some of them appear to be a little smaller.

Q. They are not uniform?—A. Not uniform; no, sir; not uniform in size.

By Mr. McDONALD:

Q. Now I will ask you to turn to page 77 if you can find it?—A. In this book?

Q. Yes.—A. I see 76 and 78.

Q. Then 77 is missing, is it?—A. It appears so.

By Senator DOLPH:

Q. One moment. Look at the one preceding the number you mention as 76 and see what that is numbered?—A. That is numbered 76.

Q. There are two numbered 76?—A. There seems to be two numbers 76.

Q. Now, does there seem to be any page missing so far as you can judge between the last 76 and 78?—A. I do not discover it.

Q. Then, it appears to run 75, two pages each numbered 76, and then 78?—A. Yes, sir.

By Mr. McDONALD:

Q. Now turn to 154 and see if you find the same condition there?—A. I do not find 154.

Q. Well, are there two 155s or 153s, or is there a page out?—A. No, sir; there seems to be a page missing between 153 and 155. O, yes; evidently that has been torn out.

Q. That one has been torn out?—A. Yes, sir.

By Senator DOLPH:

Q. Part of the stub is there, is it not?—A. Yes; part of the stub is here.

Q. Well, what letter is it in the book that precedes that on page 153, if any?—A. The date of it is Mazatlan, April 10, 1867.

Q. Directed to whom?—A. Directed to the Bank of California.

Q. Written by whom?—A. J. A. De Lagnel.

Q. Now turn over to the next one after that.—A. 153 seems to be either vacant or faded out; seems to be vacant. I don't think there ever was anything there. Then 154 seems to be missing, and then 155 seems to be a letter from Exall, dated Tayoltita, and addressed to me.

Q. So that the point where that leaf is gone is the point between the letters copied in that book from De Lagnel and those from Exall?—A. It appears so.

By Mr. McDONALD:

Q. That is, the last letter before 154 is signed by De Lagnel and the first letter after 154 is signed by Exall?—A. Yes, sir.

Mr. McDONALD. I want to read to you the questions and answers in the first part of the deposition of Charles H. Exall taken in this case, and ask you if the representations made by Charles H. Exall when he came to New York corresponded with what he stated in this deposition. That is exactly what the chairman asked him in reference to another matter; he asked him wherein it differed at all from the statements contained in that letter.

Mr. FOSTER. But in the letter; the letter is evidence before us.

Mr. McDONALD. The deposition is evidence also. One is sworn to and the other is not, and so far as Exall is concerned we have a right to prove that he made the same statement out of court that he did into court.

Senator DOLPH. I think I would rule that out as not a proper course of examination, but I am entirely willing to leave it to Senator Morgan.

Mr. McDONALD. Well, it is precisely what Senator Morgan did with reference to a statement—it was not a letter—a statement which Exall appeared to have made to some of the Mexican authorities in regard to his arrest.

Mr. FOSTER. It was a part of the evidence in this letter-book.

Mr. McDONALD. It does not make any difference. He asked him where the statement of Exall differed from that statement, and if that statement did not contain what he said in reference to his imprisonment, a very great many questions on that subject again and again, as will be found in the testimony. Now, I want to ask him if the statement that is contained in Exall's deposition, taken in court, is not substantially what Exall represented to himself and his colleagues in New York when he came there after leaving Mexico.

Mr. SHELLABARGER. I do not know whether you were in, but yesterday the chairman of the subcommittee asked this witness wherein the representations made by Exall when he returned to New York differed from the statements contained in the entire series of letters written to Garth by Exall, and we made some objection; not on the ground that seems to be objected to now, but because it was like putting a whole book at him and requiring him to answer it at once, and we remarked he had a right to read the whole of that through before he answered, and then he went on and answered. Now, this surely is just like that. This book is just as much in evidence—I mean the contents of this book is just as much in evidence—as anything else, and we surely have the right to call his attention by way of refreshing his memory to the narration contained in Exall's deposition and ask him how the two corresponded—the statement when he went to New York and the deposition.

Mr. McDONALD. If the Senator will permit me I will call his attention to this statement to which the witness's attention was specially called by the chairman of the subcommittee. This statement will be found in this printed pamphlet, beginning on page 85, and is addressed to some dignitary, chief of the political organization of Durango, I suppose, in which he goes on to detail to that gentleman the facts in reference to his arrest by another one of the officials of the country, and

asks the witness whether that did not contain all that was said by Exall when he returned to New York in regard to his arrest and imprisonment.

Mr. FOSTER. But he confined it to that point, his arrest and imprisonment.

Mr. McDONALD. His arrest and imprisonment.

Mr. FOSTER. One and the same act.

Mr. McDONALD. Now, before asking the question that I have suggested, I want to call the witness' attention to one or two things in this letter, if it may be called a letter, and that is, first, that it appears from this—

Senator DOLPH. Will you postpone this other question now? What will you do with that?

Mr. McDONALD. I will postpone it for a moment, for this shows on its face that it was written the same day of the arrest. The same day, about 11 o'clock that morning, these gentlemen called in there, and goes on to tell he was finally put under arrest that day; and he writes this to the superior to secure his release from that arrest, so that it only embraces the duress or imprisonment or arrest for that day or part of a day, and I wanted to ask the witness whether Mr. Exall in his report to them did not report to them that he had been imprisoned much longer than a day.

Mr. FOSTER. He has answered that.

Mr. McDONALD. Well, I have a right to ask it again.

Mr. FOSTER. Yes.

By Mr. McDONALD:

Q. I say if he did not represent, when he came to New York, that he had been imprisoned much longer than a day.—A. He did.

Q. Can you recollect about what length of time he represented he had been imprisoned?—A. He told me he had been imprisoned two weeks; at least two weeks.

Q. At least two weeks. Well, what did he say to you about the length of his sentence; how long he had been sentenced for, and how he got out in two weeks?—A. I do not remember whether that was the expiration of his time or whether he got out by some friendly interference.

Q. I will ask you if he did not say he had been sentenced to imprisonment for two months and was released at the end of two weeks by the intercession of friends?—A. I think so; but that he was imprisoned two weeks.

By Senator DOLPH:

Q. Well, what is your recollection on the other point as to the length of time he was sentenced and the manner in which he got out?—A. I could not distinctly say. I have no distinct recollection about that.

Mr. McDONALD. Now, I want to read these two questions and answers (Mr. McDonald read as follows):

Question No. 6. Why did said company cease its work and operations at said mines? State the reason, if you know.—A. Because I and the men under my superintendence working at the said mines were compelled to quit and to abandon the company's mining operations and property; because the interference, annoyance, and molestation we received during the progress of the work rendered success in it impossible and rendered a continuance of the work dangerous to persons and property, and intolerable, if not absolutely impossible.

Question No. 7. State in what the annoyance, molestation, and interference consisted, and from whom they came, and when they occurred, and how you were compelled to abandon your said work and the mines of said company; state fully.—A. The feeling and prejudice of the authorities, both military and civil, and of both the local and national authorities, at Tayoltita, and in the States of Durango and Sinaloa, were very inimical to us. It was currently reported by the Mexican

authorities and citizens, and we were accused of meanly coming there for the purpose of purloining the silver and gold of Mexico with which to enrich the United States, and finally of stealing the States of Durango and Sinaloa from Mexico by annexation of the same to the United States; and this feeling and prejudice soon took an active hostile form, and our lives were threatened by both the citizens and the troops of the legitimate government of Mexico, under President Juarez, its present chief magistrate. Those threats were frequently made, and we were in constant fear of our lives; and in pursuance of these threats one of the employes working for said company was actually killed while coming up from Mazatlan with a train of mules for said company, and we were finally driven off and compelled to abandon our mining operations by said authorities. The civil officers of the legitimate government of Mexico, under President Juarez, also harassed and annoyed us, and interfered with the continuing of the mining operations of said company.

I was arrested by the order of the local magistrate or judge of Tayoltita, whose official title, as I understood, was "juez," and thrust into prison and sentenced by him to a fine of \$50, and imprisonment for two months. I had no trial, nor even an examination, except by him personally, and do not know for what I was arrested or imprisoned; but I here state positively that I had not committed any act, crime, or offense against the laws or people of Mexico, or any citizen or soldier of the same, nor against any of the authorities, local or national. I was released through the personal influence of a Mr. Granger, who had to promise payment of the said fine; no good reason ever having been given me for my arrest or release. I had frequently applied to the proper military and civil authorities of Mexico, both in Sinaloa and Durango, for redress and protection against the violence stated, but was rudely denied by both in every case, and could get neither; and these threatened acts, and the acts of violence, were encouraged and connived at by said authorities, if not actually instigated by them, which last I believe to be the fact also.

By reason of these facts it was very difficult to keep men there at work, and the prosecution of the work was greatly hindered and delayed, and it finally became utterly impossible to continue the mining operations of the company; and I was compelled, with my men, to give up the same entirely, and to abandon the mines and all the mining implements and property of the company, to save our lives. I can not state dates and names with any degree of certainty; Mexican names are hard for me to remember. The Imperialist soldiers, and citizens sympathizing with their cause, also threatened and interfered with us, for the reason, as they stated, that we were in sympathy with the legitimate Government of Mexico under President Juarez; said interference occurred at various times during the whole progress of the work while I was superintendent, and we were finally compelled to abandon the company's mines and property about March 20, 1868.

The military authorities of the Liberal Government of Mexico, or those acting in that capacity, seized upon our mule trains on the road from Mazatlan to our mines in the State of Durango, loaded down with provisions and stores for the use of the employes of said company, and they, the military, appropriated them to their own use, upon the plea that they were not provided for, and must have them as a military necessity. Large numbers of our mules and thousands of dollars worth of our stores and provisions were captured in this way by the said military during the progress of the war there.

And finding it little or no better at the close of the hostilities, indeed it was even worse in the mines, for then they seemed to turn their whole attention to what they called a purpose on our part to annex Durango to the United States. And it was in vain that we protested that we had no such intention. The report had become general, and we were so harassed that it was impossible to continue our work with safety, as I have before stated. The military under Maximilian frequently captured our mules and stores in the same way and shamefully abused our men who were conducting the trains. They assigned as a reason for so doing that we, the said company and its employes, were Republicans, and hostile to the interests of their so-called Imperial Government, which was true.

And so, between the two fires, we had no protection, neither of the contending parties respecting our rights under the law, but both of them robbing us. Large quantities of silver ore was taken or stolen from our mines after we had taken it out, and such were the threats against us that we did not dare to go out and defend it, as we would have been in great danger of losing our lives by so doing. The ores so taken were the very richest, and those containing the largest amount of silver. The captures or robberies of our mules and stores, of which I have spoken, occurred at various times during the latter part of 1866 and the early part of 1867; that is, the most of them occurred during the times stated and principally by the Liberal authorities.

and also the next question and answer, etc.

Senator DOLPH. You have read two already, Senator.

Mr. McDONALD. I have read two. I want to read No. 8 and No. 9.

Senator DOLPH. No; that is sufficient to test the question. I shall decline to have that matter extended so as to go into the record any further in this shape until the question is passed upon by the chairman.

Mr. McDONALD. Let me put the whole question.

Senator DOLPH. No; I decline to have it done. The examination is adjourned until half past 10 to-morrow, when Mr. Morgan will pass upon it.

The committee adjourned until 10.30 a. m., October 6, 1888.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., October 6, 1888.

The committee met pursuant to adjournment. Present: Senators Morgan (chairman) and Dolph; Hon. Joseph G. McDonald and Hon. Samuel Shellabarger, of counsel, and Sumner Stow Ely, esq., secretary of the La Abra Silver Mining Company, and Hon. John W. Foster and Robert P. Lines, esq., representing the Government of Mexico.

TESTIMONY OF DAVID J. GARTH—Continued.

Mr. McDONALD. I want to say this: That if the question in that form is objected to, and the objection is sustained, I expect to ask the witness in detail on cross-examination what was said by Exall on his return to New York to him and his associates, and if he did not say so and so, and state the substance of what it was.

Senator DOLPH. That is to say, you propose to ask the witness if on his return from Mexico Exall did not state, taking it by paragraphs, what he has stated in this deposition that was used before the Mexican commission and taken in 1870?

Mr. McDONALD. Yes; if that is not substantially what he said to him and his associates on his return, and I ask that for two purposes: in the first place to get at, as near as I can, the precise statements made by Exall to the La Abra Company in New York, and, in the next place, as sustaining Exall, so far as the present examination is intended to impeach him, by showing that he made other statements at other times corresponding in substance and effect with the statements that he made under oath.

Senator DOLPH. This question arose in this manner: Ex-Senator McDonald, one of the counsel for the company, said to the witness:

I want to read to you the questions and answers in the first part of the deposition of Charles H. Exall, taken in this case, and ask you if the representations made by Charles H. Exall when he came to New York corresponded with what he stated in this deposition. That is exactly what the chairman asked him in reference to another matter. He asked wherein it differed at all from the statement contained in that letter.

Mr. McDONALD. Not in the letter; in the report, or whatever was made by him, on the day of his arrest, to the political chief of Durango.

Mr. FOSTER. It is a letter.

Mr. McDONALD. Well, I wanted it defined; that is all.

Senator DOLPH. I would like to proceed with my statement in this matter and give my views upon it, and if there is anything that is incorrect in the report of the matter by the stenographer, which I read from, it can be afterwards corrected.

After some remarks by the counsel on both sides, I being the only member of the committee present, said:

I think I would rule that out as not a proper course of examination, but I am entirely willing to leave it to Senator Morgan.

Some discussion followed and the question was waived for the time being, and some other questions asked the witness when Senator McDonald said to him:

I want to read these two questions and answers.

Whereupon the Senator read questions 6 and 7 and the answers in what purports to be the deposition of Charles H. Exall, which is document No. 9 in the case, numbered 489, of the La Abra Silver Mining Company vs. The Republic of Mexico, under the treaty of July 4, 1868, and covers nearly two pages of that printed document; the questions and answers referring to the circumstances under which the mine of the company was abandoned in Mexico. Then the Senator said:

And also the next question and answer.

Mr. McDONALD. Well, Senator, just allow me to say I will withdraw that part of it. I am content with the two questions and answers.

Senator DOLPH. Just let me make my statement. Whereupon Senator Dolph said:

You have read two already, Senator.

And Mr. McDonald said:

I have read two; I want to read Nos. 8 and 9.

Senator DOLPH. No, that is sufficient to test the question. I shall decline to have the matter extended any further so as to go into the record in this shape until the question is passed upon by the chairman."

Mr. McDONALD. Let me put the whole question.

Senator DOLPH. No, I decline to have it done. The examination is adjourned until half-past 10 to-morrow, when Mr. Morgan will pass upon it.

The only reason given for this course of examination was that the chairman had, in the examination of this witness, read to him certain portions of a letter of Mr. Exall to a third person, and asked him if the statements contained in the letter were true, or corresponded with the statement of Mr. Exall upon his return to New York. So far as I am concerned, I do not consider it necessary to pass now upon the question as to whether that was a proper course of examination. It will be proper in order to determine what is a proper examination of this witness to consider, in the first place, who he is, and what relation he bears to these transactions under consideration. It appears, from his testimony and from other testimony, that he was one of the promoters of this mining company; that he went to the Mexican mines in connection with Mr. Bartholow and they were purchased through him in part; that he was a large stockholder of the company; that he was for some years treasurer of the company; that it was through him that the correspondence of the company in New York was carried on with General Bartholow, with Mr. De Lagnel and Mr. Exall, the superintendents of the company in charge of the work at the mine.

It appears further that he is still the owner of the stock of the company he originally subscribed; that the company is indebted to him in a large amount for advances he made to the company, which are now in judgment, having been transferred to his brother and the suit having been brought in his brother's name; that the company still owes him for moneys advanced to it for the purpose of prosecuting the litigation before the Mexican mixed commission; that after these demands against

the company are paid he will be entitled to share in this award, if it is paid and distributed, to the extent of his ownership of the stock of the company. He is called, as I understand, by the committee to give his testimony, and on account of his interest in the subject-matter, is an interested witness, and for that reason some more latitude might be indulged in by a committee of the Senate who are after information upon this subject than would be proper in a court of justice.

I mention this to show that this is not an ordinary case of direct and cross-examination in which the rules of evidence should be strictly applied. The witness has been examined in regard to certain letters written by himself, the authenticity of which he admits; and certain letters, copies of which are produced in the copy-book, written by De Lagnel and Exall, which he admits to have received—all, I think, except those that are not mentioned in his letters which are produced. If those letters are to be relied upon as genuine letters written at that time, as a true expression of the condition of the company, without stating how far they are in conflict with the answers of Exall read by the counsel as a part of his question, they certainly go to a considerable extent to show that the statement of the witness Exall in 1870, before the commission, is contradicted by his own letters and by the state of affairs of the company, as shown by those letters.

This witness has been very thoroughly examined by the chairman of the committee in regard to Exall's statements made after he returned from the mine to New York. It has been many years since the statements were made, and it is quite possible and very probable that the witness does not now remember, with any degree of precision, what was stated by Exall. It is of course possible that Exall, immediately after writing the letters which appear in the letter-book, made a statement to the witness that would correspond with his statement before the commission; and it is also possible that he made statements when he returned, to the company, which corresponded with his letters; of the actual condition of the mine as disclosed by those letters. It is possible that this witness confuses statements that were made some time afterwards in the litigation with statements made by the witness immediately after his return. So, without criticising those statements or now passing upon the importance of the fact that Exall did or did not make the precise statements after his return which he made in his testimony, I will come down to the question as to whether this course of examination, which is to read to this witness now, while he is being examined on behalf of the company, the statements contained in a deposition of Exall made some two years after his return and to ask him whether or not those statements correspond with his statements made to the witness after his return from Mexico.

I have practiced law a good many years and I thought I was familiar somewhat with the rules of evidence. I have never yet known of that course being permitted. There could be no objection to this witness being allowed to restate from his recollection as often as is reasonable what Exall said to him on his return. If he made any memorandum at the time while the matters were fresh in his mind, that memorandum might be shown to him for the purpose of refreshing his recollection. If he wrote any letters at the time containing a statement of facts derived from Exall, he might be permitted to refresh his recollection by them, but to show him the statement of a third person for the purpose of asking him whether or not that person made similar statements to him some years previously I think can not be done and ought not to be done and would not assist the committee or Congress in arriving at the facts in this case.

When it was suggested, I intimated that I would not permit that course of examination to proceed, and after counsel had read two of these long questions and answers and proposed to read two more, I felt compelled to stop the examination until the chairman was present. I hold that the questions can not be answered. If counsel thinks that he has a right to do so and that anything will be gained by putting questions to the witness containing the statement of Exall in his deposition in paragraphs without stating from whence they are taken, it will be time enough to decide the extent to which that examination will be permitted to proceed after the questions are proposed.

Mr. McDONALD. Mr. Chairman, the statement made by Senator Dolph of course is substantially a correct statement of this question and the manner in which it arose.

Mr. SHELLABARGER. Excuse me, Senator, you are wrong in one part of your statement, and I only mention it because it is important, if there is anything important in this point. You have stated there that we placed it upon the ground that the chairman had asked whether the representations made by Exall when he returned to New York corresponded with certain passages that were read by the chairman from the letters of Exall. I think you got it about that way.

Senator DOLPH. How is that?

Mr. McDONALD. Well, I was going to refer to that. He spoke about that as being the ground upon which we asked these questions to be propounded. I did of course refer to the rulings that had been made, or to the course that had been pursued in the examination of the witness by the chairman of the committee, which I was not criticising at all, and which I admitted to be correct by making no objection to it at the time. It was certainly an important matter, and so esteemed by the chairman and by the committee, to know what Exall did report, and again when he came to New York from Mexico after leaving there, either abandoning the mine, or coming away voluntarily what he said to the witness and his associates as to the cause of his leaving, and in order to get down to the point as closely as possible, the chairman read to him a statement made by Exall on the day of his arrest. It did not appear at what hour of that day, but it was on the day of his arrest, because he states: "This morning at 11 o'clock this man appeared," and so and so, and asked him if that did not contain the statement that Exall made as to his arrest and imprisonment; and if not, in what respect it differed from the statement made by him. The witness gave his understanding of it, and it is in the record. I do not care about repeating it, but it was certainly not assenting to that as the statement made by Exall. Now, then, in pursuing that same thought and endeavoring to reach that same point I turned to a deposition which Exall made in the progress of the case before the commission when it was being heard, and I read two questions and answers, and asked him if they do not contain the statement made by Exall substantially to him and his associates upon his return, or, if it does not, I propose to ask him in what material it differs; how far it differs. Now Senator Dolph says that to him that is an unheard-of course of practice, and refers to the relationship which this witness bears to this case as having some bearing upon our right to submit what I would call direct questions, leading questions. He has been examined in that manner and form by the chairman of the committee and no objection has been made to it.

Senator DOLPH. The objection to this question is not that it is leading.

Mr. McDONALD. I propose to ask him leading questions.

Senator DOLPH. You have been doing that without objection.

Mr. McDONALD. Then, if we have that right to ask this witness leading questions, I insist that the question we submit is a correct one; that in asking leading questions we have a right to state the question to the witness and ask him whether it is not true, either in separate paragraphs or embracing the entire subject upon which we are taking his judgment and recollection, and I insist that that practice is in the courts I have practiced in universally recognized that in asking leading questions you have a right to state the precise question; put it in form just as the chairman did yesterday. I think his examination was entirely correct, assuming the right, as he did, to cross examine this witness, which I concede a perfect right to do; a perfect right to cross-examine him, on account of the relationship and his supposed bias in the case. If it had been before a court that a witness of that kind had been produced, counsel on showing that fact or stating that fact would have had authority from the judge to make his examination a direct one from the start, and I simply, for the purpose of saving time, put this inquiry into as near the same form as had been observed in the previous examination as I could. That is all there is of it.

Mr. SHELLABARGER. Now, before we go away from this and before the chairman makes his statement, if he proposes to make any, I want to add to and finish the statement I began to make a moment ago. I did not in the statement I made, Senator Dolph, yesterday to you place it upon the analogy there was between what had been done by the examination of the chairman and what was sought to be done yesterday. I did not place the analogy at the same place where Senator McDonald places it now. What I said the question was analogous to that was asked yesterday was that part of the chairman's examination where he asked the witness in substance, as the record will show, how the representations made by Exall when he returned to New York corresponded with the letters that had been put in evidence and written by Exall to New York. To refresh your memory about the fact that that was the occurrence you remember we made an objection, and at last I said to the witness, "Now, before you answer that question you have a right to read through that entire mass of letters that you are asked to contrast the contents of with the statements made by Exall when he returned to New York." Now, there is where I found the analogy. I think the question that we asked yesterday was in its legal effect quite equivalent to those of the description that I have now stated.

Senator DOLPH. You refer to what purport to be Exall's letters to this witness?

Mr. SHELLABARGER. Yes; that the Senator did ask the witness to state how far the report made when he returned to New York corresponded with that mass of letters, the difference being this, that he did not in those questions point out some particular letter or some particular passage, and then ask him whether there was anything in the report that contradicted that. It was that general question. Those other questions were asked by the Senator. He did go through and ask him in detail, but it was not there that I found the analogy. I found it in that part of the examination where he was asked to contrast the report made when he returned to New York with the contents of that mass of letters written by him.

Senator DOLPH. Now it might be well to call attention to the difference between the two cases. The letters shown to the witness by the chairman were copies of letters which purport to have been written by

an agent of the company during the course of his agency, by the superintendent of the company at the mines, who was carrying on all the transactions of the company, to the treasurer of the company and the agent of the company in New York, who carried on the correspondence there. The witness had admitted that he had received a considerable portion of those letters all up to a certain date. The other letters were press copies, found in what is stated by a witness to be the letter-book of the company, filed in the order of their dates, apparently detailing a continuation of the transactions of the company, and I think I am not in fault in saying that a presumption arises that they had been mailed and if mailed had been received, but it is not material to discuss the strength of that presumption or whether or not it exists. The witness has been examined by the committee as to what Exall stated to him after his return.

It seems to me it is a very different question, asking the witness to compare those letters, some of which he admitted were received, others which purported to have been written to him by an agent of the company and by the party who made the statement, with the statement and the proposition to read in bulk to the witness a statement made by Exall after the testimony shows he had ceased to be connected with the company some years and when he was not an agent of the company, when his declarations were not competent to be given in evidence on account of that change. Because he was an agent of the company, counsel said they proposed to go on and show that Exall had made statements to others which corresponded with his statement in the deposition and contradicted the letters. I never have yet heard that it was competent for a party when the statement of a witness was given in evidence, and I suppose these letters, having been already proved, will be offered in evidence, may be considered before the committee, to prove that the witness has made a different statement somewhere else and under other circumstances. I do not think that would be competent. As I said before, this witness was examined critically and at length, and asked to give and gave his impressions as to what Exall stated after his return, and I do say, and am willing to let my judgment stand upon that proposition, that to read to this witness this deposition and then ask him whether Exall made such and such statements is not a proper examination under any circumstances.

The CHAIRMAN. Judge Shellabarger, do you recollect which of the letters of Exall to Garth you read to witness?

Mr. SHELLABARGER. I read two. Now I will tell you which ones as soon as I can turn to them. I read that one that is on page 94, at the bottom, dated the 15th of June. Then I read one that came before that.

The CHAIRMAN. That is on page 92, dated the 15th of March?

Mr. SHELLABARGER. Yes, I think I read that one.

The CHAIRMAN. Now, did you read another?

Mr. SHELLABARGER. I do not think I did *in extenso*, that is, entirely; that is, I called his attention to each one, and asked him if he had ever received them or knew of such letters being written, and I asked that question as to all the letters that appear in that series.

The CHAIRMAN. You read no part of any other that you remember, did you?

Mr. SHELLABARGER. I think I did read parts, but not all.

The CHAIRMAN. Parts of any other?

Mr. SHELLABARGER. Any other than those two?

The CHAIRMAN. Well, if you did, you may have read from April 7th;

I think you read from May 8th. There is a letter dated May 8th on page 93. This witness was called to the stand by the Senate committee. He was not a witness for the claimants, nor a witness against the claimants, so far as the committee were concerned, but a witness to cast any light upon this question that he was capable of doing, and was supposed to be, from his relations to the company, in full possession of all the facts that related to the administration of its affairs in Mexico.

In the examination of the witness, which was conducted by myself, I became impressed with the fact that he was very reluctant to state what he knew, and so expressed myself in one form and another on frequent occasions during his examination. The papers which had been in his charge are not produced, and appear to be lost. No paper has been produced here which was left in the city of New York at the time that he went out of office as the treasurer of the company. The examination, therefore, was dependent very largely, if not entirely, so far as the contents of those papers and books were concerned, upon his recollection and upon his disposition to state what his recollection was. After progressing with the examination until Mr. Exall returned to New York, I endeavored to obtain from the witness a statement of what Exall had said to him, but he professed to be unable to give any statement of the language used by Exall on the occasion of any interviews he had with him, either alone or in the presence of other members of the corporation. He stated in a general way what I conceive to be his conclusion of fact from what Exall had stated to him, or, rather, the impression that Exall had made upon his mind in respect of the abandonment of the enterprise in Mexico and the cause of the abandonment, and I labored assiduously to get him to make some statement of what Exall said, using, as far as practicable, his language, or the substance of the language that Exall employed, and that was without success.

The record of that examination has not yet been printed, and I understand from the stenographer that he has not yet drawn it out from his stenographic notes. Of course, in the course of so long an examination, it would be impossible for me now to recite what was the entire situation of the examination as it appeared to me at that time. I conceived that it was my right and duty to ask this witness leading questions because of his reluctance, and because of his relation to this company, being largely interested in this recovery, having made contributions of funds for the purpose of the prosecution of the case before the arbitrator, and having consented that his claim should go into a judgment against the company June 8, 1867. I do not understand that the Senate in calling a witness who is related as this witness is to these transactions gives him any credit in the sense that a witness is given credit by a person who is a party to a private litigation and is called as a witness to sustain his case, not any more than a grand jury would be giving credit to a witness whom they might call upon an investigation of facts relating to some public crime or a coroner's inquest would be in an examination in a case of homicide.

So that, the manner of the examination, if it was, as I claim that it was, sincerely devoted to the purpose of bringing out the truth in this matter, has very little to do with the case, as I conceive. After I had turned the witness over to the gentlemen who are representing the private interests in this matter, his examination was taken up by Judge Shellabarger and proceeded with to a very considerable extent. I thought I saw that the witness was quite willing to make any statement of his recollection about matters which he thought would benefit his

side of this case. That was my impression, and I think the record bears it out. I was surprised when Judge Shellabarger, in the course of his examination, took some letters or copies of letters, which are printed in this book and read from page 92 the entire letter.

Mr. FOSTER. They are copies of original letters now before the committee.

The CHAIRMAN. I know the originals are here. He read from page 92 the entire letter of Charles H. Exall to Granger, of the 15th of March, 1868, and, as I remember, the entire letter of June 15, 1868, by Exall to Granger, dated in New York, and parts of the letter of May 8, 1868, written by Exall to Granger. These letters, as will be seen by reference to them, contain statements in regard to the conduct of the business at the mines and statements also of the situation of the mines at the time that Exall was there, and up to the time that he left. They also contain statements in regard to a proposition that Exall alleged had been made by some person, whose name he did not give to Mr. Garth, and a stockholder or perhaps stockholders—the letter shows—to purchase these mines upon certain conditions which Garth mentioned.

There were several statements in these letters which it occurred to me, and which I still believe, were not in correspondence with what Mr. Garth had stated Exall said to him, or rather the substance of what Exall stated to him. He did not state, and seemed unwilling to state, what it was Exall did say to him; professed to be entirely unable to do it. Thereupon I cross-examined him, or rather I examined him, interfering as I think I did with Judge Shellabarger's examination at the moment, upon certain of these statements, and asked him a question, whether Mr. Exall in his conversation with Mr. Garth made any statement to reverse what is contained in these letters that Judge Shellabarger was examining from. I do not remember precisely the same language of his answer, but I think it was entirely indefinite; to the effect that he had already recited all that he remembered that Exall said, or the substance of it, and had given his best recollection. Whereupon I asked him if he had any recollection, and the matter went on in that form, pursuing that course of examination. I followed on with another letter which appears in this printed book, page 95, July 10, 1868, and asked whether Exall had made any statement to him differing from the statement made in this letter from Exall to Granger, to which I have just adverted, and that was the manner of that examination.

Pursuing it still further, I went back to the letter of Exall to the political chief, page 85, a letter dated Tayoltita, January 7, 1868, and I read that to him. In that letter is given an account of the arrest of Exall and of what occurred on that occasion, and of the nature of his imprisonment; and I asked him further the question whether Exall in his statements to him in New York had made any statement different from this letter, and he said that he had; he had made a stronger statement than that which is contained in this letter, of the fact of his imprisonment, stating that he had been imprisoned two weeks. I asked him where. He said he did not know, could not tell, and, so far as he could recollect, or by whom, he could not remember, except that he was imprisoned by the authorities. I asked him whether it was a personal imprisonment or if it was an arrest which was considered imprisonment because he was in arrest and under duress. He could not state that.

Now, that is my recollection of the extent to which this examination went.

Mr. McDONALD. Mr. Chairman, will you allow me to ask if you do not recall that part of the examination which you now refer to occurred

while you were making the examination-in-chief, and before the witness was turned over to us.

The CHAIRMAN. That is not my recollection.

Mr. McDONALD. I think it is.

The CHAIRMAN. I think it was after Judge Shellabarger had offered his letters. I know I was surprised—I think Judge Shellabarger is a very fine lawyer—and I could not understand his object in offering these letters.

Mr. McDONALD. I think you will find it in the record that your examination, as to what Exall said, and for the purpose of getting down precisely to his statement after his return to New York, was in your examination-in-chief. I know you regarded it important, for the mode of examination indicated it, and so did we, to know what Exall had said or represented to these parties when he came back; and, as Mr. Garth did not recollect the language, and could not very clearly state the substance, my remembrance is that you called his attention to that letter to the political chief, and asked him if that did not embrace substantially what Exall said, and if not, wherein it differed.

The CHAIRMAN. I know that I called his attention to other letters in my examination-in-chief.

Mr. McDONALD. Well, that is my recollection; I may be wrong.

The CHAIRMAN. I made that line of examination, whether Mr. Exall stated anything different to him after he got there than what is stated here, or whether he stated these facts to him, assuming that these letters had been received, and desiring to refresh his memory as to what the contents of the letters were.

Senator DOLPH. I suppose Judge Shellabarger acted upon the presumption or proposition that those letters were, or would be, in evidence on one side of the case, and was seeking to introduce evidence contradictory of them from this witness.

The CHAIRMAN. I want to say about it in the direct examination, if you call it such, or—

Mr. McDONALD. Call it examination-in-chief.

The CHAIRMAN. Well, I asked this witness whether he ever received any letters from Exall after the 10th day of October, I believe, which was the date of the last letter Exall wrote to him.

Senator DOLPH. That he wrote to Exall.

The CHAIRMAN. That he wrote to Exall and Exall wrote to him. I mean that he acknowledged. I am going now upon his testimony as he gave it, and I asked him the question whether or not he had ever written to Exall after the 10th of October. My recollection is that he said he had not, and I asked him the question whether he had received any letters from Exall, as I remember it, after the 10th of October. He said that he had not, if I recollect his testimony correctly. Later in his examination he stated that he had written to all of these men, Bartholow, De Lagnel, and Exall he believed, he said, by every steamer that went out. First he said by every mail, and I suggested that he meant steamer, and he said yes; the steamers went about semi-monthly. Well, the contradiction in the statements made by the witness upon that proposition, the freedom with which he stated the fact, in reply to the question of counsel, that he had written these letters to them, impressed me with the idea that Mr. Garth was willing to make a statement which was not within his statement, certainly was not when I examined him, if he told what was true about it in regard to writing and sending these letters. I therefore thought it was my privilege and duty to try to refresh his recollection by these papers, which he had the opportunity of

reading since he has been here—I did not know whether he had read them or not—containing copies of letters alleged to be from Exall to this chief of police.

Mr. LINES. I think prefect would be the proper translation.

The CHAIRMAN. Well, prefect, a Mexican justice of the peace, I suppose. And it was in that attitude and in that way that this matter came up. Now it is proposed—and my action in that matter is quoted as a precedent for it—it is proposed to examine this witness upon a deposition that has been given in this case by Exall in behalf of the claimants, and, as I understand it, with a view to show Exall on that occasion swore differently from what his letters indicate, and that he then swore the truth and made a false statement in his letters. Now, of course, this witness can read this deposition, and we can not keep him from it, if he wants to, for the purpose of refreshing his recollection, or read anything else that comes to his attention for the purpose of refreshing his recollection as to what the conversation between him and Exall was, but it does not occur to me that it is a proper form of examination to read Exall's deposition to him after all that has occurred in this case, and ask him now if he recollects that Exall stated to him that thing in the form in which it is stated there.

I have no objection, as a member of this committee, for him to look over this deposition to refresh his memory as much as he pleases, but to answer from his memory, not from the book; and I do not think that anything that I have done in this case in the line of examination I have observed is at all inconsistent with that course; or, if the gentlemen are not satisfied with this and prefer the action of the entire sub-committee, we will adjourn this question until Monday or such time as we shall meet again and have a full printed copy of all that has been testified to by this witness, and I would very much prefer that course for the reason that, as a matter of course, it is some embarrassment to me to be required to state my remembrance of a long examination and when I had no one to assist me. Of course my mind was not directed to every fact in the case as counsel's would be. I have some embarrassment in such circumstances in trying to state what I think was the state of the record, the attitude of the question at the time I put these questions to Mr. Garth. Senator McDonald and I differ now about whether that reference to the letter written by Exall to the chief of police or prefect was in the examination-in-chief, or whether it was an interpolation, or rather, an interruption of the examination by Judge Shellabarger. I think it was—that is my recollection—that I interrupted the judge and asked him to allow me to bring that subject up, though I may not be certain about that; that is my recollection. Now, Mr. Dolph, I believe that as this matter stands—a critical question, a nice question, one of great importance too—that we had better wait until we see the printed record, and see exactly what it is, and have the entire committee here to discuss it.

Senator DOLPH. I certainly have no objection to that.

Mr. McDONALD. I wish to make a suggestion to the committee, that the view I take of this question is this: that we have a right to ascertain, if we can, just what Exall reported, either verbally or otherwise, to the witness and his associates when he came to New York after leaving Mexico, and that in a cross-examination of the witness, if I may use that term, we have a right to put to him the direct question of whether Exall did not state so and so and so, and call his attention sharply to it and to his recollection upon our statement of what we assume in that form of examination, the statements of Exall were. If we have no right to ask the witness what may be termed leading questions, then, of course,

we have got to content ourselves with asking him to repeat, in substance, if he can, the full text of what Exall said to him, although he has been asked to do that on the examination-in-chief. As Senator Dolph said, we may not be satisfied with his answer on that subject, and we may still further test his memory.

Senator DOLPH. No question about that.

Mr. McDONALD. That, if the committee should decide that we can not ask him leading questions, then I agree that we must put our questions in such a form as obviates that objection, but I think we are entitled to ask leading questions. Now, on the other point, I am not mistaken. I know that where a witness is assailed, either by proof of general bad character or by proof of contradictory statements made from that which he gave under oath, he may be sustained by proving he made the same kind of statements that are given under oath at other times and to other parties. As sustaining testimony there can not be any question on that subject, and if we have a right to sustain Exall, we have a right to sustain him just in that way, if he is regarded as in any manner impeached by these other statements or declarations or letters, or anything of that kind, as affecting his testimony given in the case. Of course this is not a trial; if it was a regular trial, at the time this examination was being heard before the commission, there could be no question about this; but I apprehend this investigation is supplemental, so far as facts are concerned, to that trial, and that this additional evidence is sought for the purpose of reflecting upon the case as it was heard before the commission and before the arbitrator, and, if that is so, we certainly have a right to sustain a witness who is impeached by undertaking to prove contradictory statements, by saying that he made statements contrary to those made under oath.

The deposition is the testimony that is impeached here, or sought to be impeached here, and it is to sustain that deposition that we have a right to call this witness. We insist upon that point, or to call any other witness who heard Exall make statements in reference to that transaction that support this deposition.

Senator DOLPH. If you do that, Senator, would you say to him "State what Mr. Exall said," or would you say, "Did Mr. Exall say so and so to you?"

Mr. McDONALD. I say, if we have no right to ask leading questions of this witness we must put them in legal form, but I insist we have a right to ask this witness leading questions. The chairman has stated the attitude of this witness correctly, I think. He is not the witness of either party so far as I am concerned, and we do not claim that this committee has given him any credit or sought to give him any credit by calling him here as a witness, any more than if he was examined before any other tribunal. As suggested by the chairman, he stands here as a witness simply for investigation, and I think if he is to be cross-examined on the one side he is to be cross-examined on the other.

Senator DOLPH. Now, there can be no question of your right to prove what Exall said to this witness after his return to New York. The manner in which you shall question him is the thing in controversy.

The CHAIRMAN. Or he can take that deposition to refresh his memory.

Mr. McDONALD. Suppose you do this, and you can take the question under advice. Now, I want to ask the witness—I will ask him this first question here—whether Mr. Exall, when he returned to New York and made his report to yourself and your colleagues of the causes which had induced him to quit the mines and come to New York, did not say that the men under his superintendence working at the mines were com-

don the company's mining operations and
erence, annoyance, and molestation received
work rendered success in it impossible, and
the work dangerous to person and property,
dutely impossible.

not in substance what he said upon that

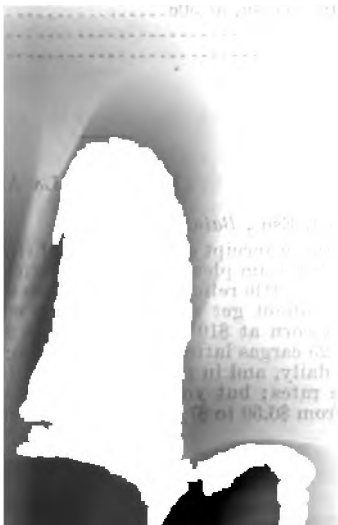
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call of the chairman.



By the committee:

Ordered, That the letters printed in Ex. Doc. H. R. No. 274, Forty-ninth Congress, first session, from page 5 to page 96, be printed, and that the same be compared by the clerk of the committee with the original press copy-book, and letters which have been admitted in evidence in this investigation and corrected and made to correspond with the press copies of letters and the original letters on file, the paging of said Ex. Doc. 274 to be preserved by marginal numbers in the new print.

TRANSCRIPT OF THE ORIGINAL PRESS COPY-BOOK OF THE OFFICE OF THE LA ABRA SILVER MINING CO., AT ITS MINES IN TAYOLTITA, STATE OF DURANGO, MEXICO, CONTAINING LETTERS FROM JANUARY 11TH, 1866, TO AUGUST 12, 1868, OFFERED IN EVIDENCE AND IDENTIFIED BY THE TESTIMONY, AND ALSO AS TO THE HANDWRITING OF CERTAIN LETTERS OF CHARLES H. EXALL THEREIN, BY THE TESTIMONY OF WILLIAM P. TUTTLE.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, January 11, 1866.

JOS. G. RICE, Esq., *San Dimas*:

DEAR SIR: I beg to acknowledge receipt of your letter of this day's date, and in compliance with its request I send you per bearer a small quantity of bacon, pork, butter, and pickles. I am out of coffee entirely, have perhaps ten pounds sugar and $\frac{1}{2}$ pound tea. Like you, I have an order in Durango for all supplies, which I expect by 25th inst., and Don Juan Castillo is doing all he can in Mazatlan to get these articles for me from Mazatlan, and I learn that some of them are now at Bainillo, but none as yet have arrived at this hacienda: hence I cannot send as much as I would like to do, without failing to supply my own men. I have spared you all I can at this time; will let you have the balance as soon as my supplies arrive.

I have planted all the potatoes I brought up; consequently have none on hand. I did not even permit a single one to be used on the hacienda.

If nothing interferes to prevent, Dr. Hardy and Mr. Kirch will accompany Mr. Bordwell and myself on Saturday to your place.

My kind regards to Mr. Walters and others of your friends.

Your friend,

TH. J. BARTHOLOW.

| | | |
|------------------|-------------------------------------|-------------|
| 6 | 25 lbs. pork and bacon, at 50c..... | \$12.50 |
| | 8 lbs. pickles, at 25c..... | 2.00 |
| 16 $\frac{1}{2}$ | lbs. butter, at 75c..... | 12.37 |
| | | <hr/> 26.87 |

To your debit.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, January 11, 1866.

GEORGE F. GRIFFITH, Esq., *Bainillo*:

MY DEAR SIR: I am in receipt of your favor of the 9th inst., from Sn. Ignacio, and in reply beg to say that I am pleased thus far with the report of your progress, but my experience is that little reliance can be placed in the promises of men in this country, and if you cannot get them to go along with you it is unsafe to rely upon them. You may buy corn at \$10 and dried beef at \$— and 3, delivered to the amt. of 100 cargas corn and 25 cargas latter. We are buying beans from the direction of Durango at \$14 almost daily, and in this view I think it not our interest to buy beans below at over these rates; but you may buy at this price \$14 to the extent of 20 cargas, and cheese from \$6.50 to \$7.50 to the extent of three to five cargas.

I have had the river between here and La Perla greatly Dr. Hardy and Stanislaus has been at work on it with a number of hands, and now it is quite passable; packs are coming over it daily, mules and jackasses.

I regret that Mr. Gracy has been arrested; I fear it will have the effect of exciting suspicion against all other Americans doing business in this section. Keep yourself out of all such scrapes, attend to the business of La Abra Co. and *nothing else*. Write fully and as often as you can. I am informed that we have at Bainillo candles and other goods, purchased for us by Castillo; these, as you are aware, we need badly: let all of them, if possible, or an assortment at least, come by first train, and at the same time the tools and other articles wanted by Bordwell.

Your friend,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MIN'G CO.,

Tayoltita, January 16, 1866.

Messrs. ECHEGURAN, QUINTANA & Co.,

Mazatlan:

GENTLEMEN: I am in receipt of your esteemed favor of 10th inst., and have noted its contents. For your kind attention in receiving, mailing, and forwarding my correspondence, I beg to return you my thanks.

In the lot of letters received by Mr. Correll I have two from our mutual friend David J. Garth, esq., treasurer of La Abra Silver Mining Co., New York, in which he says that the credit of the company shall be at all times fully maintained, and that my drafts for such amounts of funds as are necessary to vigorously prosecute our works to an early completion shall at all times meet with due honour.

I am under obligations to my friend Don Juan Castillo for his kindness in assuming the charge of my Atlantic correspondence, and should you have occasion to write to him during his absence please have the goodness to express to him my thanks.

I beg to advise you that to meet mining expenses and to pay hands for getting timbers for our mill and other necessary outlays, I have, under this date, drawn upon, in favor of Dr. W. B. Hardy, for fifteen hundred dollars, in three drafts of \$500 each; they are thus drawn so as to enable Dr. H. to sell them at San Ignacio or San Juan, thus obviating the necessity of going to Mazatlan to obtain the money.

I have not yet received the goods for which Mr. Castillo obtained the permit, as mentioned in your letter; but am expecting them this week. I have made an order to Durango for a small lot of supplies, which are now on the way, to the extent of 25 car-gas; these, with the few articles from your place, whilst they are in the aggregate inadequate for my wants, will assist my operations considerably. I, however, must, by some means or other, get a stock of goods for the store, and shall be under many obligations to you if you will, at as early a date as possible, get a permit from the authorities to pass for me additional supplies in small lots at a time (if they will not grant passes for large lots). I most particularly need dry goods, heavy English linens (brin), fine linen (orea), hickory shirting (rayadillo), bleached muslin (good). I have enough common on hand; 1 lb. ass'd silk, pearl buttons, needles, pins, buttons, suitable for the legs of pants; in fact, a general small assortment of these articles, as well as shawls and rebocos, and of these goods I wish you to forward me a small supply without further orders as early as possible.

I expect to visit your city about the 6th Febr'y, to meet the next steamer, when I shall have the pleasure of advising with you personally regarding the affairs of my company.

In the mean time believe me your friend,

TH. J. BARTHOLOW, *Sup't.*

Nuestro Guadalupe Mining Co., in account with La Abra Silver Mining Co.

1865.

| | | | |
|-------|-----|--|---------|
| Nov'r | 10. | To cash paid in San Francisco for their proportion of cost of clearance papers on shipment of fuse | \$4. 50 |
| Dec'r | 19. | " cash | 10. 00 |
| | 4. | " 200 feet fuse, at \$3.00 | 6. 00 |
| | 20. | " 25 feet do., at \$3.00 | . 75 |
| | " | " $\frac{1}{2}$ arroba powder, at \$10 | 5. 00 |
| | 21. | " coffee and sugar | 3. 25 |
| | 22. | " cups and saucers | 1. 00 |
| | 24. | " am't paid Juan Gonzales | 4. 00 |
| | 26. | " $\frac{1}{2}$ arroba powder | 5. 00 |
| | 30. | " hat for Pricilano | 2. 00 |
| | | " am't paid Cayetano Romero | 6. 00 |

S. Doc. 231, pt 2—17

Nuestro Guadalupe Mining Co., in account with La Abra Silver Mining Co.—Continued.

| | | | |
|--|-----|---|----------|
| 1866. | | | |
| Jan'y | 1. | " 1½ arrobas powder, at \$10..... | \$15.00 |
| " | " | " 4 quires paper | 1.00 |
| " | " | " order Juan Gonzales | 4.50 |
| 7. | " | " 4 arrobas charcoal | 1.50 |
| 8. | " | " 200 feet fuse | 6.00 |
| " | " | " 2 arrobas charcoal | .75 |
| 14. | " | " 100 feet fuse | 3.00 |
| " | " | " paper | .25 |
| " | " | " 2 arrobas coal at 37½ | .75 |
| 16. | " | " candles | 5.00 |
| 18. | " | " 3 arrobas coal, at 37½ | 1.13 |
| 21. | " | " 4 qrs. paper | .25 |
| 22. | " | " ½ arroba powder, at \$10..... | 5.00 |
| " | " | " candles | 3.00 |
| 1865. | | | |
| Nov'r | 26. | " 300 feet fuse (borried) | 9.00 |
| 1866. | | | |
| Jan'y | 26. | " 100 feet fuse | 3.00 |
| " | " | " ½ arroba powder | 5.00 |
| 29. | " | " candles | 5.00 |
| " | " | " 100 feet fuse | 3.00 |
| " | " | " 2 qrs. paper | .50 |
| " | " | " 1 lb. steel | .25 |
| 31. | " | " candles | 2.00 |
| " | " | " 225 feet fuse, borried Dec'r 4 and 20 | 6.75 |
| | | | <hr/> |
| | | | 129.13 |
| CREDIT. | | | |
| Jan'y | 21. | By 1 pump and fixtures | \$180.42 |
| " | " | " am't assessment No. 2 | 550.00 |
| | | | <hr/> |
| | | | 730.42 |
| Balance due Guadalupe Co | | | 600.29 |
| Less freight and duties on 1 barrel fuse | | | 14.00 |
| | | | <hr/> |
| | | | 586.29 |

January 31, 1866.

TH. J. BARTHOLOW,
Superintendent.

E. & O. E.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, Feb'y 3, 1866.

8

JOSEPH G. RICE, Esq.,
San Dimas:

DEAR SIR: I enclose a check drawn by Geo. Grassie, esq., in favor of Dr. W. B. Hardy and on José M. Loyara for eighty dollars (\$80), which Senor Loyara said he was unable to pay in consequence of not having the money on hand. I also enclose three of your currency checks, amount three dollars (\$3), and have debited account to Durango Silver Mines with the sums, making a total of eighty-three dollars.

Please inform me when your fuse arrives, as I want to get the loan of a package until mine comes to hand. I have a moderately stock of lard, and if you need any I will loan you a few cargas, and also beans.

Your fr'd,

TH. J. BARTHOLOW,
Superintendent

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, Feb'y 4, 1866.

JOS. G. RICE, Esq.,
San Dimas:

DEAR SIR: In reply to your favor of 3rd inst., I beg to say that I comply with pleasure with your request to send you a box of powder and some sugar and coffee, as per memorandum, but the powder you can return when yours arrives, and I will credit you with the same.

I wrote you yesterday about fuse. When yours arrives I will want to borrow or buy one or two thousand feet; will send for it as soon as I learn of its arrival. I send the raisins also. My butter, bacon, &c., that is that remaining behind, has not yet come to hand.

Your friend,

TH. J. BARTHOLOW.

TAYOLITTA, Feb'y 4, 1866.

The Durango Silver Mines, bought of La Abra Silver Mining Co.

| | |
|--|---------|
| 1 box, 150 lbs., powder, at 40c..... | \$60.00 |
| 18 lbs. sugar, at 50c..... | 9.00 |
| 10 " coffee at 75c..... | 7.50 |
| 10 " raisins, at 50c..... | 5.00 |
| 1 bag, 75c.; 1 yd. maulin for raisins, 37½c..... | 1.13 |
| Ch'g'd to account..... | 82.13 |

HACIENDA, LA ABRA SILVER M'G Co.,

Tayolitta, Feb'y 6, 1866.

D. J. GARTH, *New York:*

DEAR SIR: Your letters dated in November, one the 30th, came to hand by the January steamer, but did not reach the hacienda in time to answer them by the return steamer. I, however, wrote you about the 1st Jan'y, giving you a report of my operations up to that date. I notice your remarks about the importance of getting out and delivered on the patio sufficient ore to guarantee that our mill can be kept running day and night. I intend to have on the patio, if industry and management can effect it, by the time our mill is ready to start, 1,000 tons of ore, and with this start I have no fear of our ability to keep the mill running. We are weekly improving La Luz mine, getting the metal laid bare gradually, so that we can increase the number of laborers in it almost weekly. We are getting out weekly 15 tons cleaned metal. Last week we increased the quantity to 18 tons. Next week, if more tools (mining) arrive, I will commence to work in "El Christo," and shall work it on this principle, viz: Start a new tunnel on the vein about 100 feet below Castillo's old works, then at same time commence the sinking of a shaft in the old works (on the vein) to intersect the new tunnel; thus when the intersection is completed there will be laid bare sufficient of the vein to work fifty hands to advantage, and all the ore can be dropped into the new tunnel and taken out with wheel barrows, thus dispensing with the labor of "tenateros" to a great extent, and in addition I shall, as soon as possible, commence work in "El Inocentes." These three mines alone, I think without

doubt, will supply more than our machinery can work. If, however, I am mistaken in this opinion, and I do not think I am, we have "La Talpa" and La Arrayan (in working condition) to make up any deficiency.

I have put our mines and mining in charge of Mr. Geo. Cullins, a gentleman of much experience in mining, who has been working in the mines of Lower California for over two years, and I am highly pleased with his practical good sense and sound judgment; he knows more about working a mine than all the rest of us put together, and he says that in his opinion, after seeing a large number of silver mines in Mexico and the United States, and worked in quite a number, he has never anywhere seen so good a property as this.

I have succeeded in getting our business pretty well systematized, as follows: As above stated, Mr. Cullins has charge of mines and mining, and works his hands according to his own judgement, discharges any that do not suit, and no one has a right to instruct or interfere with him but myself, he being responsible to me alone. J. V. Hardy has charge of the store on pretty much the same principle; Mr. Griffith, Wm. Grove (a new man from Saline Co., Mo.), and Dr. Hardy has charge of all the pack trains; each manages and controls a train; this is necessary for the reason that if some American in the employ of the company is not constantly with the trains, there is great danger, if not a certainty, that the animals would be taken by the military authorities, and besides I could not get the Mexicans to pack for us unless I agreed to do this; besides, with this arrangement I have a guarantee that my men, animals, and effects will not be interfered with.

With regard to the change of the mill-site, I found on my return, after careful measurements and calculation, that it would be cheaper and better to put the new mill on the site of the old one, and am doing so; the wheel-pit is about dug or rather blasted out; for the whole ground was filled with volcanic and granite boulders; have burnt 100 pounds of powder in the grading already, and will have to burn a good deal more. We commenced to-day to lay the walls of the wheel-pit, and we have blasted out more rock already than we can possibly use in the walls, and much of it is splendid build-

ing rock. We also have 70 pieces of timber dressed and ready to frame into the mill, and plenty more in the yard to keep the hands at work for two weeks; there are yet 100 pieces in the woods to be brought down, 54 of which I contracted for yesterday; these comprise all the very large sticks are included in this contract, the rest are all small, and can be had at any time needed; the rafters, those 14 feet long, I have contracted for their cutting, barking, and delivery at 62¢ ea.; this is cheap, but those large and heavy sticks which require 20 men to handle are costing high. I first tried to get them down by hiring the Mexicans by the day and working them under the superintendence of an American, but found this would not do at all, as the cost was entirely too high; so I contracted with a Mexican to deliver the 54 large pieces at an average of \$23 per stick. You may think this is a very high price, but when you consider that 20 to 24 men are employed to do the work, and one-half the sticks requiring two days' hard work to get them to the hacienda, it is as cheap as it can be done for.

After I had gotten all our machinery completed in San Francisco, and the belting, bolts, extras, and tools shipped and paid for, I found that instead of having between 30 and 40 tons, which you had estimated the mill would weigh, I found I had nearly eighty tons, and instead of all costing \$10,500 as you had estimated it and me also in my report to the co., I found that—

| | |
|--|-------------|
| The entire cost was | \$15,500.00 |
| The freight and duties | 2,500.00 |
| And the packing to Tayolita, in consequence of the operations of Corona around Mazatlan, will average 16 to \$18 a cargo, or | 9,000.00 |
| The lumber and timbers will probably cost | 4,000.00 |
| Lime will also have to be increased to | 1,200.00 |
| Mechanics and laborers, I think, will be about former estimate | 7,000.00 |
| Corn, salt, quicksilver, and other supplies | 10,000.00 |
| Castillo, for balance of account | 7,000.00 |
| | <hr/> |
| | \$6,200.00 |

This difference in estimate is caused principally by the weight of the mill and its cost being first so greatly underestimated, and of course all calculations based upon the weight and cost of the mill in my former estimate are not reliable; and besides, when I left here for San Francisco in September mules could be contracted for to pack at from \$8 to \$10 per cargo, but after the liberals took possession of the country and confiscated large numbers of mules it was with the greatest difficulty that I could get any one to agree to pack at all; and had I not succeeded in getting military protection, our mill would now be lying in Mazatlan. Had I at the time I agreed to remain in Mexico known that I would have to contend with half the difficulties I have even now encountered I never would have undertaken the task, but as I agreed to do it my pride is enlisted in the success of the enterprise, and I will see it through if it is possible for energy and industry to succeed.

10 Your explanation about the increase of the capital stock to \$300,000, but not to sell any more than is requisite to put the concern in a paying condition, meets my full approval, for this is in accordance with the original understanding.

Wilson and Hardy have paid \$4,500, balance due upon their original stock, but as yet Mr. Wilson has not paid the \$3,000 new stock. I have paid \$4,000 on my stock, leaving a balance of \$500, which I will draw for whenever needed. Mr. Griffith says that he has the means in the hands of S. F. Nucholls, esq., to pay the balance of his stock, and that Mr. N. has his instructions to pay it. Dr. Porter's stock should be forfeited. Mr. J. V. Hardy says emphatically that he never agreed to pay it and does not owe Dr. Porter a dollar, and of course will not pay any portion of it.

In one of your last letters I found a power of attorney from Mr. A. A. Green in favor of Mr. Ganim (s/o'y of Durango silver mines, New York), authorizing him to dispose of his interest in La Abra mine, and you do not mention for what purpose it was inclosed to me; please enlighten me on this subject. You also state that I failed to forward the report of the Guarismay mines and instead inclosed a report of the mines and property purchased of Castillo. There must be some mistake about this. I forwarded you as follows: 1st, report and map of survey of the Promontoria and Animas mines, Guarismay, by Fred. Weidner, with samples of ore and silver; 2d, history of same (in Spanish) by Antonia Arriza; I also forwarded a history of this property, which I got Castillo to write, and from a letter of Mr. Nucholls to Mr. J. V. Hardy, which I read, stating that the matter was in his hands for sale, and that he was getting the Spanish documents translated; I am led to think that the papers must all have come to hand, as nothing relating to the Guarismay property was in Spanish except this history and the title papers. In your next please be more explicit as to what the missing paper was, if any is missing.

With regard to making the deed to the company for all the property belonging to it, which is held in our name (that is, yours and mine), I beg to say that part of the original papers are in Durango, and as soon as I can get them back I will make out,

acknowledge, and forward same to the company. Nothing definite has yet been heard from Farrell; Castillo's brother in Durango, who he swindled out of one or two thousand dollars; he heard of him between Durango and the City of Mexico, and sent a party at his own expense to arrest and bring him back, and he had high hopes of success. I sincerely hope he will succeed.

Don Juan Castillo has gone to Spain, to return in September. He left in consequence of the presence of the liberal troops in this vicinity, and as he is very obnoxious to many men of that party it is for him probably best that he should expatriate himself for awhile; he spoke of going by New York in the event of his not finding a more direct route from Aspinwall by Havana. Before leaving he sent to Durango all the requisite documents necessary under the laws of this country to divest Farrell of his interest in the Guarisamay property, and his brother, Don Angel Castillo, will promptly attend to it.

I go to Mazatlan to-morrow to meet the steamer and to make arrangements with the authorities to get out some supplies that I am greatly in need of. I can do this, I think, better than any one I have in my employ. J. V. Hardy will be in charge during my absence. By the March steamer I will have to draw for (\$10,000) ten thousand dollars.

Yours, truly,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MIN'G CO.,
Tayallita, Feb'y 5, 1866.

Sor. D. ANGEL CASTILLO DE VALLE,

Durango:

DEAR SIR: I am in receipt of your two esteemed favors, one enclosing invoice of goods amounting to twenty-eight hundred and forty-four $\frac{7}{8}$ dollars, and the other per Señor Osuna, the owners of a train of mules, who desire to enter into the employ of this company. With regard to the first, I beg to say that when your bill is due, viz, May 16, I will have in your hands to meet it my draft on Messrs. Etcheguran, Quintan & Co., Mazatlan, and with regard to the latter I beg to inform you that I have sent a special messenger to the liberal commander and prefect in San Ignacio, asking permission for your friends to return to their late homes in Leneria, and to prosecute their business as formerly, and stating that I had employed them to pack for me. My messenger has not yet returned, but I am looking for his return hourly, and I entertain no doubt of my request being granted.

Hoping that our business acquaintance may result to our mutual interest and advantage,

I am, d'r sir, your ob't servant,

TH. J. BARTHOLOW,
Superintendent.

11 *Nuestra Señora Guadalupe Co. in account with La Abra Silver Mining Co.*

| | | |
|-----------|--|--------|
| 1865. | | |
| Nov'r 10. | To cash paid proportion for clearance of fuse..... | \$4.50 |
| Dec'r 19. | " 225 ft. fuse (borrid)..... | 6.75 |
| 1866. | | |
| Jan'y 29. | " 1½ arrobas powder..... | 15.00 |
| | " 4 quires paper..... | 1.00 |
| | " order Juan Gonzales..... | 4.50 |
| 7. | " 4 arrobas charcoal..... | 1.50 |
| 8. | " 200 feet fuse..... | 6.00 |
| | " 2 arrobas charcoal..... | .75 |
| 14. | " 100 feet fuse..... | 3.00 |
| | " 1 quire paper..... | .25 |
| | " freight duties on 1 bbl. fuse..... | 14.00 |
| | " 2 arrobas charcoal..... | .75 |
| 16. | " candles..... | 5.00 |
| 18. | " 3 arrobas charcoal..... | 1.13 |
| 21. | " 4 quires paper..... | .25 |
| 22. | " ½ arroba powder..... | 5.00 |
| | " candles..... | 3.00 |
| | " 500 ft. fuse (borried), (Nov. 26, Jan'y 26, 29)..... | 15.00 |
| 26. | " ½ arroba powder..... | 5.00 |
| 29. | " candles..... | 5.00 |
| Jan'y 2. | To 2 qu's paper, 50c., 1 lb. steel, 25..... | .75 |
| 31. | " candles..... | 2.00 |

100.13

CREDIT.

| | |
|---------------------------|-----------------|
| By pump and fixtures..... | \$180.42 |
| " assessment No. 2 | 550.00 |
| | <u>\$730.42</u> |

Balance due Guadalupe Co \$630.29

January 31, 1866.

TH. J. BARTHOLOW,
Superintendent.

E. & O. E.

HACIENDA, LA ABRA S. M. Co.,
Tayoltita, 8th Feb'y, 1866.

Santicina Trinidad Co., bought of La Abra S. M. Co.

| | |
|----------------------------------|----------------|
| 3 ps. French lawns, 9.50 ps..... | \$28.50 |
| 1 " 31½ Vars. manta, 37c..... | 11.90 |
| 5 lbs. bacon, 50c | 2.50 |
| | <u>\$42.90</u> |

Ch. to act.

Mr. A. B. ELDER, *La Perta* :

DEAR SIR: Above you have invoice of articles sent you this morning, which we hope may prove satisfactory. We would be happy were it in our power to furnish all articles asked for or wished in your favor.

Truly, your ob't serv't,

LA ABRA S. M. Co.,
By HARDY.

HACIENDA, LA ABRA S. M. Co.,
Tayoltita, 12th Feb'y, 1866.

12 *Santicina Trinidad Co., bought of La Abra S. M. Co.*

| | |
|----------------------------|----------------|
| 20 lbs. sugar, at 50c..... | \$10.00 |
| 4 doz. lassos " 37½c..... | 1.50 |
| | <u>\$11.50</u> |

Mr. A. B. ELDER, *La Perta* :

DEAR SIR: Your favor of 9th is to hand, and above you have invoice of articles wished, which we hope may prove satisfactory.

Truly, your ob't s'v'ts,

LA ABRA S. M. Co.,
By HARDY.

HACIENDA, LA ABRA S. M. Co.,
Tayoltita, 14th Feb'y, 1866.

Sannicina Trinidad Co., bought of La Abra S. M. Co.

| | |
|---------------------------------|----------------|
| 1 cargo beans..... | \$18.00 |
| 2 arrobas dried beef, 4.50..... | 9.00 |
| | <u>\$27.00</u> |

Chg'd to acct.

Mr. A. B. ELDER,
La Perta :

DEAR SIR: Your favor to hand; above you find bill of articles ordered.

Truly, your obed't serv'ts,

LA ABRA S. M. Co.,
By HARDY.

P. S.—The beef we purchased here for you, and charge you cash.

Yours, &c.,

LA A. S. M. Co.

HACIENDA, LA ABRA SILVER M'G Co.,
Tayoltita, Feb'y 21, 1866.

Sor. Dr. ANGEL CASTILLO DE VALLE,
Durango:

DEAR SIR: Confirming my respects of the 5th inst., I beg to now to advise you that our mutual friends, the Messrs. Ossena, have received permission from General Corona to go to Lenora and take possession of their property there, and I am also informed that their corn, which had been confiscated, has been returned to them; their mules are now packing for me, which circumstance aids me materially in getting all my machinery and effects delivered in good time. I am now of the opinion, provided the war does not stop my operations, that all my machinery and supplies from San Francisco and Mazatlan will be at the hacienda by 15th March, and that my mill, comprising ten stamps, four pans, three settlers, three concentrators, and three barrels, which machinery requires an over-shot wheel twenty-four feet in diameter, with six feet face, all will be completed and in running order by 1st June; then I will crush and beneficiate ten tons of ore per day. I have now over three hundred tons of ore mined, and the most of it on the patio, and by 1st June will have on hand at least one thousand tons.

I will thank you to forward to me as early as opportunity offers, say, 7 (seven) cargas powder (2,100 pounds) 8 (eight) cargas tallow (2,400 pounds), 10 (ten) cargas flour (3,000 pounds).

The port of Mazatlan is now open; I returned from there on the 18th, after having purchased dry goods, groceries, boots, and shoes, &c., to the amount of seven thousand dollars, all of which I expect to arrive in two weeks, when I will have a good stock.

I am working twenty Americans and over one hundred Mexicana.

Your obt servant,

TH. J. BARTHOLOW,
Superintendent.

13

HACIENDA, LA ABRA SILVER MIN'G Co.,
Tayoltita, Mexico, Feb'y 21, 1866.

W. C. RALSTON, Esq.,
Cash'r, San Francisco, Cal.:

DEAR SIR: Inclosed I hand you my draft in favor of Bank of California, and on David J. Garth, esq're, New street, New York, for ten thousand dollars (gold coin), which you will please negotiate and place proceeds with current rate of exchange to my credit.

I beg also to advise you that I have also drawn upon you of even date in favor of Messrs. Echeguran, Quintana & Co., Mazatlan, for ten thousand dollars, which said draft you will please honor when presented.

Mr. Garth has embarked in the banking and exchange business in connection with two of his old friends in New York and Richmond, Va., under the firm of Harrison, Garth & Co., of which he has most likely advised you.

I am now starting 150 mules, which are sufficient to transport *all* the balance of my machinery, and if they meet with no accident all will be here by the 10th March, and I will be ready to crush and beneficiate ore by the 1st June.

My miners in one of our mines few days ago struck a small vein about six inches wide (an off-shoot), which is exceedingly rich, and the vein is widening daily; the ore will assay at least \$500 per ton. I have now on hand 325 tons ore.

Your obt servant,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MIN'G Co.,
Tayoltita, February 21, 1866.

Messrs. ECHEGURAN, QUINTANA & Co.,
Mazatlan:

GENTLEMEN: On my way home from your city I passed 174 mules loaded with my machinery, about half of which have arrived, and the rest will be here to-morrow, when Dr. Hardy will start back with 150 of them, which will be sufficient to transport *all* I have of machinery and goods left in Mazatlan. This is quite gratifying to me, and to pay the packers I need, in addition to what money I have on hand, at least two thousand dollars more, and have drawn upon you in favor of Dr. W. B. Hardy for this sum, which draft please do me the favor to honor. It overdraws my account, but to make it good I have drawn a draft in favor of Bank of California for ten thousand dollars on Mr. D. J. Garth, New York, and herewith enclose you my draft on Bank of California for an equal sum, the proceeds of which please pass to my credit.

My miners in "La Luz mine" a few days since discovered a small vein, an off-shoot from the main vein, about six inches wide, from which they are taking out ore that is worth at least \$500 per ton. So Dn. Ignacio Manparres, partner of Dn. Juan Castillo, gives it as his opinion, and the Americans here who are experienced in Mexican ores concur in the same. We took out of "La Luz" week before last thirty-seven tons, and last week we commenced work in El Christo. This mine produces a large quantity of ore, but it is not worth over \$50 per ton, but as it is easily gotten out, and is docile, it will pay well to beneficiate it on American machinery.

Your obt^t servant,

TH. J. BARTHOLOW.

P. S.—I enclose letter to W. C. Ralston, esq., cashier Bank of California, which contains my draft on Mr. Garth. Do me the favor to forward it by next steamer with the draft I sent you on him, so both may arrive together.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, Feb'y 27, 1866.

JOS. G. RICE, Esq.:

DEAR SIR: In reply to your favor of yesterday I beg to say that I have no axes to spare, that is, to sell, but I send you by the bearer four, which you can return when yours are to hand.

I have made an order to Durango for about twenty-five cargoes, consisting of powder, tallow, and flour, which order left Gavilanes to-day by the regular courier. I hope your order may reach Durango in time to come with the same train.

Your friend,

TH. J. BARTHOLOW,
Superintendent.

The Durango Silver Mines to La Abra Silver Mining Co.

14 For 4 American axes (handled), at \$5.....\$20.00

P. S.—I will not have sufficient money to pay my hands this week, and will thank you to let me have \$2 to \$250 on Friday. If you can not get a chance to send it over let me know and I will send a messenger for it. I also write to Learago for a small amount.

The Santissime Trinidad Mining Co. bo't of "La Abra Silver Mining Co."

2 p's manta, 31½, 31½—63½ vs., at 37½..... 23.72
10 lbs. coffee, at 65c..... 6.50

Amount \$30.22

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, February 27, 1866.

A. B. ELDER, Esq.:

DEAR SIR: Above I hand you bill of manta and coffee, am't \$30.22 to your debit. I have no powder to spare; have ordered 2,000 pounds from Durango, and fear I will be entirely out before it arrives. I think Mr. Rice received a lot lately. Perhaps he can spare you some.

I would be glad for you to ride up next Sunday, or any other day soon that may suit your convenience, as I desire to have a talk with you on the subject of furnishing you with the supplies you are getting of us, to understand from you your arrangements, and how you desire to settle for them and the time necessary for this purpose, as well as to talk of other matters connected with business.

Your fr'd,

TH. J. BARTHOLOW,
Superintendent.

HACIENDA, LA ABRA SILVER MIN'G CO.,
Tayoltita, Feb'y 28, 1866.

JOS. G. RICE, Esq're,
San Dimas:

DEAR SIR: I beg to acknowledge receipt of your favor of this date, and in reply beg to say that I am obliged to you for the offer of the loan of your "Boletas"; but if

and myself under the necessity of resorting to this class of currency my own might answer the purpose; yet I do not wish to do this so long as I can avoid it. I have, however, for the purpose of making change, issued the fractional parts of a dollar to a limited extent when absolutely necessary. If Mr. Grassie should get back and you can let me have \$100 or \$150 by Saturday or Sunday it will be thankfully received.

Some weeks since I sent to Santiago Papasquia for a lot of mules to pack for me. Some came promptly, and are now in my employ, and to-day about 70 more arrived, all of which I fear I can not employ, yet think I need 20 to 30 of them to finish up my freight from below. If you need the rest, and will come over to-morrow or next day, we can make, doubtless, a satisfactory arrangement to use the whole lot in copartnership, as it is desirable, in my opinion, to retain them. If, however, this does not suit you, I will use all in transporting salt and corn from below. Please attend to this promptly.

Your friend,

TH. J. BARTHOLOW, *Supt.*

WILLIAM SCOTT, Esq.,
On the road:

TAYOLTITA, March 4, 1866.

DEAR SIR: The bearer of this letter has a pack-train of sixty-four mules which I have hired to pack corn for Mr. Rice and myself from San Ignacio. Mr. Rice has contracted, through Mr. Loaiza, for a considerable quantity of corn, and as I had engaged this mule train, and Mr. Rice, being unable to hire any himself, has agreed that in consideration of my letting him have the use of one-half of these mules he lets me have one-half of the corn.

15 On receipt of this letter you will return to San Ignacio with the train. There you will meet Loaiza and Mr. Grassie, who will assist you in the loading, and Mr. Grassie will more fully explain to you the arrangement. When loaded, you will accompany the train, and at La Puerta you will divide it, sending one-half to San Dimas and bringing the remainder to this place. Mr. Grassie starts to-day from San Dimas for San Ignacio.

Your friend,

TH. J. BARTHOLOW,
Superintendent.

Nuestra Señora Guadalupe Co. bought of La Abra Silver Mining Co.

| | | | |
|-------|-----|--------------------------------------|--------|
| 1866. | | | |
| Feb'y | 7. | To 4 lbs. sugar, at 50c | 2.00 |
| | " | 2 lbs. coffee, at 75c | 1.50 |
| | 12. | " 4 q'tes paper, at 25c | 1.00 |
| | 15. | " 4 " do., at 25c | 1.00 |
| | 25. | " 2 lbs. Mexican steel, at 30c | .60 |
| | | | <hr/> |
| | | | \$6.10 |

Rec'd payment.

TH. J. BARTHOLOW,
Superintendent.

HACIENDA, LA ABRA SILVER M'G CO.,
Tayoltita, March 1, 1866.

HACIENDA, LA ABRA SILVER M'G CO.,
Tayoltita, March 7, 1866.

Michael Kirch, of the city of San Francisco and State of California, is hereby authorized and empowered to cast the vote for the stock owned and held by this company, viz, five hundred and fifty shares (550) of the capital stock of Nuestra Señora de Guadalupe Silver Mining Co., at the general election for officers of said company to be held in the city of San Francisco in this month, and also at any other election which may be held subsequently until this proxy shall be revoked.

TH. J. BARTHOLOW,
Superintendent.

HACIENDA, LA ABRA SILVER M'G CO.,
Tayoltita, March 7, 1886.

DAVID J. GARTH, Esq.:

DEAR SIR: Confirming my respects of Feb'y 6th, when I wrote you fully regarding my operations up to that date, I now beg to report that the wheel pit is completed, the shaft and flanges are now being set, the arms, buckets, and in fact all the wood-work is about completed and ready to set up. The tail race, which is four feet below Castillo's, is being excavated as rapidly as possible; twenty feet of it finished, over which a brick arch is now being turned; the foundation for the battery is dug, and the timbers for same are now being put in; the most of the grading is done, and the rest is progressing sufficiently to keep out of the way of the mechanics; besides, fully two-thirds of the rest of our timber is delivered and dressed and ready for framing.

Dr. Hardy and Mr. Griffith are on the road with about 150 mules. Mr. Griffith writes me from San Ignacio that all our machinery and the stock of goods I purchased last month in Mazatlan are loaded and on the way. I expect their arrival to-morrow or next day.

You will bear in mind that our machinery, 80 tons, arrived in Mazatlan Dec'r 13th; the country through which it was compelled to be packed occupied by the Liberal troops and the theater of military operations. This army had taken possession of all the pack animals in the country between here and the port, and therefore I was compelled to send to the vicinity of the city of Durango for mules to transport the mill; and when the animals were obtained I was under the necessity of sending to Gen'l Corrona for his protection and a guarantee that the men and animals in my employ should not be taken by his forces. All this I obtained, but not without difficulty, and with all these difficulties I have in less than three months succeeded in getting all our machinery and a fair stock of goods delivered at the hacienda. Every
 16 American I talked with, and a number of Mexicans, including Messrs. Echeguran, Quintana & Co., advised me to store the machinery in Mazatlan until the country was in a more pacific state; but this did not suit me, and by harder work than I ever before performed, seconded and assisted by the gentlemen in our employ, we have surmounted all obstacles, and I can assure the company that if the revolution does not now stop our operations, and I do not believe it will, their mill will be completed and crushing ore in June.

Whilst I have devoted all the energy and industry I could command in the transportation of our machinery, and keeping the builders at work, I have not neglected the mines. From "La Luz" we have taken out 400 tons, and the quantity mined weekly has been increased to an average of 30 tons, and at the same time we have succeeded in reducing the cost delivered on the patio to \$15 per ton. In this mine we have found a small vein, an offshoot from the main vein, which is now about six inches wide, which is producing with two hands (no more can be worked in it) from three to four hundred pounds per week of ore of surprising richness. If the opinion of the Mexicans, including Dn. Ignacio Manfases, is worth anything, these say it will yield \$1 to the pound. I think this an overestimate, but I would not be surprised if it should assay \$1,000 to the ton. I have put up about two pounds of it, which I will send with this letter, by Wells, Fargo & Co.'s Express. On its receipt I would be glad if you would have it assayed and report the result. This ore we put up as fast as mined in gunny sacks and store it in the ware room. "El Christo" mine turns out greatly better than I anticipated. While working in the new tunnel and sinking the shaft from the old works to intersect it, we are taking out from ten to fifteen tons a week. We expect the tunnel to strike the vein in thirty feet, when the quantity of ore will be more than doubled, and when the shaft and tunnel has been made to intersect each other this mine cannot fail to yield from 60 to 70 tons per week, ample to keep the mill employed day and night. The ore from this mine looks remarkably well. In many pieces virgin gold is plainly seen with the naked eye. Mr. Cullins, our head miner, says he has never seen such a mine in all his experience in California and Mexico, and he has been working in mines for fourteen years. The vein is six feet wide and the ore uniform, requiring but little assorting, and besides, it is easy to blast and get out, and is, I think, less rebellious than any ore we have. I expect to commence in another mine in a week or two, for, as I promised to have 1,000 tons of ore on the patio by the time the mill is completed, I am determined to do it, and at the same time to have the mines in such a condition that there can be no possibility that the mill when once started will ever have to stop for the want of ore. So far from this being the case I am fully convinced that if our mines are worked with proper system and judgment the company will, in the next twelve months, be compelled to erect another mill with twice the capacity of the present one to enable it to work the ores which by that time will be produced, and when La Abra tunnel shall have been out to its intersection with La Abra vein at least 100 stamps with the requisite number of pans, &c., will be required.

As you are aware, I have always been sanguine with regard to the success of this enterprise and the great value of the property possessed by the company, and if at any time there has been any cause whatever to doubt its success, active work upon it

has dissipated that doubt. Revolution and war or criminal bad management alone can cause a failure. I am fully convinced that within quite a short period after our works are completed and running it will be demonstrated that this company owns one of the best mining properties on the continent of America if not in the world, but this, like all other valuable property, will require close and constant attention, as well as systematic judgment and integrity, to realize the profits that ought to be obtained from it, as all may be frittered away by dishonesty or bad management, and instead of the property paying a large profit, if it should be managed like some other mining properties in this country, it may result in loss, but this can, in my opinion, only occur from the causes mentioned above. The thousand tons of ore which I will have mined when the mill is ready to start will, in my opinion, fully reimburse the company for the entire expenses of the mill and all other improvements which I have been compelled to make.

Soon after I commenced laying in my supplies for the coming rainy season, I found that we did not have near enough warehouse room to store them. The corn room was soon filled. Salt and lard filled up the corner room, and beans, powder, and groceries filled the third to overflowing, besides the back shed was soon piled up with everything we could put into bags, so as to render them secure against damage or theft, and yet not half enough was had to supply us during the long rainy season.

I was therefore compelled either to raise the *hac'ra* another story or build other store-rooms. The former I found to be attended with much difficulty as well as exposure to loss in the event of rain, so after reflection I concluded to build a row of one-story rooms just opposite and in front of the present building, leaving a street between the two of 30 feet in width. I then made a contract with Judge Haight, an American, to put up a building 101 feet in length by 18 feet wide (in the clear), to be built of adobes, the walls to be 16 feet high, the roof of tiles, and the floors of brick, to be divided into five rooms, he to furnish all the materials except the wood; this I am to furnish. He took the contract for \$875 and to pay his board while engaged in its construction. This I regard as very low, and am fearful he will lose money on it, but he is doing the work with great rapidity; will have the most of it completed in a month. The first room next to the race I design for an office; this will be 18 feet square; the next, 18 x 36, will be the store, and the next three are intended for ware-rooms. When completed I will take the old store for a sleeping-room for our employes. At present we are sleeping on the patio, as we have not house-room for more than half a dozen.

I have in store 200 *cargas* corn, 100 *cargas* beans, 100 *cargas* salt, some \$2,000 worth lard, besides a large stock of flour, powder, drill steel, etc., and will require, in addition, 700 *cargas* more corn, 500 *cargas* salt, and if dry-goods continue to sell as fast as they have for the past month, will have to have \$10,000 more of them. Our sales range from \$50 to \$100 per day cash, besides what we sell to our employees, which is charged on the books. The store under good management will, I think, yield a net profit of twenty thousand dollars per annum, but it requires close and constant attention, for the reason that these people buy everything of general consumption in very small quantities, usually from 3c. to 6c. at a time. I have seen women stand at the counter and make three purchases of cheese of 3c. each; they do this under the impression that they get more in the aggregate by buying in such small quantities; yet when they come to purchase a dress, a rebozo, or shawl, they will cheerfully pay the highest price if they have the money, and rarely complain of the prices asked. Our staple goods and provisions yield a profit of at least 50 per cent., and fancy dry-goods from 60 to 100 per cent., and the most difficult task I have now is to keep an ample supply on hand to meet the demand.

In my last letter I informed you that one of my employees, Wm. Grove, esq., formerly of Saline Co., Mo., was missing, and I feared had been waylaid and murdered; since then my worst fears have been realized, for after a search of two weeks his body was found buried in the sand on the bank of the Piaxtla River, some ten miles above the mouth of Candalero Creek, near where he had been murdered. At the time of the discovery of the body it was in such an advanced state of decomposition that it was impossible so ascertain the manner in which he had been killed. His mule, pistol, and clothing have not yet been found; the mule is, however, likely to turn up, as it had our hacienda brand "U.S." on the left shoulder. These facts were promptly laid before the commander of the liberal troops at San Ignacio, Señor D. Jesus Vega, who took great interest in the matter and promised to use all the means in his power to discover the murderers and bring them to justice, and he has had arrested and placed in confinement two men charged with the crime, and his soldiers are in pursuit of the third. These we are assured will be tried by court-martial, and if found guilty will be summarily executed. Mr. Grove, I think, lost his life by imprudence in talking; he had resided in Mexico for six or seven years, spoke the language quite fluently, and ought to have understood the character of the people. I had nominally purchased a train of pack mules in Mr. Grove's name and sent him to San Ignacio to obtain a permit for them to pack for me, and a guarantee that they would not be taken by the army; he succeeded in getting these documents and was on his way home to take possession of the mules

and start them to packing; he passed the night previous to his death at the house of one Meliton, at Teohamate, the place where you will recollect we stopped for dinner on our first trip up, where we had quite a quantity of watermelons. This man Meliton had a bad reputation, was some years ago convicted of murder and robbery and sentenced to be executed, but got clear by bribery. Grove told this man of his purchase of the pack train, and that he was to pay \$4,000 for it, and was on his way to take possession of it and start it to work, thus leaving the impression that he had this sum of money with him. Now, whilst I do not think that Meliton committed the murder, I have no doubt of his having planned it and arranged for it to be done, and the imprudence of Mr. G. in telling this man the circumstances above mentioned, in my opinion, was the cause which led to his murder, which was effected between Teohamate and Tenchuguilita, about midway between the two places.

You will cause to be forwarded to me as soon as issued the certificates of stock in favor of Messrs. Hardy & Wilson, which I will deliver to the parties as soon as all is paid up. The original stock to them of \$22,000 is to be divided equally between Jas. M. Wilson and Irby V. Hardy; the \$5,000 subscribed in New York by I. V. Hardy is paid in full, and the certificate is to be issued to him. Mr. Wilson agrees to pay in this month one-half of his new subscription of \$3,000, and the balance next month. Send all these certificates to me by next steamer and I will deliver them to the parties.

My stock is paid, but the company will retain my certificate until my return. Mr. Griffith has given me no instructions regarding his certificate. In my last I wrote you what he said about payment of the balance due. I have not yet gotten our title papers from Durango; as soon as they are to hand I will make out and forward the deed you have requested.

As I advised you in my last, I have drawn upon you in favor of the Bank of California for (\$10,000) ten thousand dollars, which draft will go to San Francisco by the steamer of the 16th inst. The most of this money I expect to use in the purchase of salt and corn. Will start the mules, now engaged in packing machinery, to bringing up these supplies as soon as they arrive with the balance of the mill, which will be in a day or two. When our mill is running we will not use less than five hundred pounds of salt daily, and as none can be packed in June, July, Aug., and September, and perhaps October, it is absolutely necessary that enough be in store to run us during the rainy season. To keep us fully supplied with this necessary article will require during the packing season a train of at least 100 mules, and another train of an equal number will be necessary for corn and panocha. All these matters will require constant and assiduous attention from your superintendent, for a failure to obtain an ample quantity of these supplies for the rainy season will not only involve a very heavy expense, but will greatly retard, if not absolutely stop, your work. If the latter should occur you will lose your miners, and much time will be required to obtain a new set, for these men are so improvident that if they are without work for two weeks at a time they and their families are in danger of starvation, then mutiny and revolution is the inevitable result.

In my last letter I reported that I had paid \$1,100 assessment to the Guadalupe Co. Since then I am informed that you had sent a check to the company in San Francisco for one assessment of \$550, and Mr. Correll has paid back to me this sum, consequently I have only paid \$550 on this account. This company's mine is in a good fix, the tunnel has intersected the vein, and they are now taking out a fair quantity of good ore, but I think at too heavy expense under the present management. I have written to the pres't of the co. that a change was absolutely requisite in the management here, and asked him to send a competent man to take charge of their business here—one that would work in harmony with us and regard the interests of both as being identical, which is the case. But Mr. Correll does not appear to regard the matter in this light, and instead of assisting me to manage and control the population (Mexican) he endeavors to thwart my authority, and has in consequence given me no little trouble lately. However, I have told him plainly that he must change his course or he or I, one, would have to leave. Since then I have got along better, but still by no means satisfactory.

Mr. Kirch, one of the trustees of this company, who spent nearly two months here, fully agreed with me in my views of management, and promised me to urge a change. I advised the company to send Mr. Kirch here as superintendent, and hope they will do so. By this steamer I forward to Kirch a proxy authorizing him to vote the stock owned by our company at the general election to be held in San Francisco the last of this month; this will enable him, I think, to oust Correll, and I am very anxious that this should be done as speedily as possible.

I think by next month, if no accident occurs, I will be enabled to report an amount of work completed that will be eminently satisfactory to the company. I, of course, don't know what view the company entertains of my progress thus far with the great difficulties I have had to surmount, but I can assure them that my success has been far beyond my expectations.

Your fr'd,

TH. J. BARTHOLOW,
Superintendent.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, March 7, 1866.

MICHAEL KIRCH, Esq., San Francisco :

DEAR SIR: Herewith I enclose you a proxy authorizing you to vote the stock owned by this company at the general election to be held, as I understand from Mr. Correll, very soon, and of course you will vote it as your best judgment will dictate, for on this subject I have no instructions to give.

Hoping soon to have the pleasure of seeing you here with authority to take charge of the business of your company,

I am, &c.,

TH. J. BARTHOLOW, *Sept.*

HACIENDA, LA ABRA SILVER M'G CO.,
Tayoltita, March 7, 1866.

Messrs. ECHEQUEURAN, QUINTANA & Co., Mazatlan :

GENTLEMEN: One of my mechanics desires to make a remittance of two hundred and fifty dollars to his brother residing in Scotland, and I will thank you to invest this sum in a sterling bill, on London or Liverpool, payable to the order of John Weir, and inclose same in a letter to him directed as follows: John Weir, baker, Lamash, Island of Arran, Scotland. You will also please inclose the letter herewith to the same party. This sum you will place to the debit of my account.

Mr. James M. Wilson, the bearer of this, goes to Mazatlan with a small pack-train, to bring up some goods which I expect have arrived by this steamer; please have them passed at the custom-house and delivered to Mr. Wilson as speedily as may, so he will not be unnecessarily detained with his mules on expense in Mazatlan.

You will also do me the favor to forward, by Mr. Wilson, one thousand dollars (\$1,000), which said sum you will charge to my account. I forward by Mr. Wilson a package of letters and a small package of silver ore, all of which please forward per Wells, Fargo & Co.'s express, charging expenses to my account.

I have now on hand fully four hundred tons of ore (400 tons), and am mining over thirty tons per week. The ore of "La Luz" continues to improve in quantity and quality. I now believe that by the time the mill is completed I will have enough ore on hand to pay for the entire cost of the mill and improvements.

Your fr'd,

TH. J. BARTHOLOW.

HACIENDA LA ABRA SILVER MINING CO.,
Tayoltita, March 13, 1866.

Señor DR. ANGEL CASTILLO DE VALLE, Durango :

DEAR SIR: I wrote you on the 21st February, requesting you to send me, with as little delay as possible, 7 cargas powder, 2,100 pounds; 8 cargas tallow, 2,400 pounds; 10 cargas flour, 3,000 pounds; and having an opportunity to send you this letter, I repeat the order, so as to avoid too great delay in the event that my first letter did not reach you.

In addition, if an opportunity occurs, I desire you to send me 4 cargas costales, 12 arrobas each; 1 box cigarros dobles; 1 box puros (8 in a bunch); 5 cargas powder (15,000 pounds).

Your fr'd,

TH. J. BARTHOLOW.

All my machinery except about 10 cargas, which will be here to-morrow or next, has been received, as well as all the goods I purchased in Mazatlan. Considering that these effects weighed over 80 tons, and all packed up, through a country in a state of war, in less than three months, is quite good evidence of industry and energy.

B.

Señor Dr. Arcadio Larena to La Abra Silver Mining Co.

1865.

| | | | |
|------|----|-------------------------------------|-------|
| Nov. | 5. | Por 2 piezas indianas, \$7.50 | 15.00 |
| | " | 2 docena pannelos, \$3.30 | 6.60 |
| | " | 1 cotence | 62 |
| 21. | " | 1 1/2 pulose | 10.00 |

Señor Dn. Arcadio Lareaya to La Abra Silver Mining Co.—Continued.

| | | | | |
|------------|-----|---|--|------------|
| 1866. | | | | |
| Enero | 1. | " | Libraza contra Echequran, Quintana & Co | 1,502.53 |
| | 7. | " | 500 pies maches | 16.00 |
| | 20. | " | 181 " asague, 80s | 144.80 |
| Feby. | 28. | " | pagar M. Gray, por trai asague. &c., Mazatlan á Comanche. | 10.50 |
| Suma | | | | \$1,706.05 |

CREDITO.

| | | | |
|-----------|-----|----------------------|----------------|
| 1866. | | | |
| Novr. | 9. | Por efectos | 510.76 |
| | 24. | " " | 971.59 |
| Deer. | 2. | " " | 42.50 |
| 1866. | | | |
| Enero | 30. | " 24 " marchas | 7.92 |
| | | | <hr/> 1,532.77 |
| Bal | | | \$173.28 |

20

TAYOLITTA, *Marzo* 14, 1866.

Señor Dn. ARCADIO LAREAYA:

Concuerdamente con sus decesos remito á V. factura de la cuenta que tiene V. corriente en este negociacion.

Soy de Vd. ato. y S. S.,

TH. J. BARTHLOW.

[Translation.]

251

Mr. Arcadio Sarcaya to La Abra Silver Mining Co.

DR.

| | | | |
|-----------|-----|---|----------|
| 1865. | | | |
| Nov. | 5. | To 2 pieces chintz, at \$7.50 | \$15.00 |
| | | 2 dozen handkerchiefs, at \$3.30 | 6.60 |
| | | 1 piece awning | 62 |
| | 21. | 1 arrobe gunpowder | 10.00 |
| 1866. | | | |
| Jan. | 1. | To draft on Echequran, Quintana & Co | 1,502.53 |
| | 7. | 500 feet match rope | 16.00 |
| | 20. | 181 pounds quicksilver, at 80 cents | 144.80 |
| Feb. | 28. | Mr. Gray for freight of quicksilver from Mazatlan to Comanche | 10.50 |
| Sum | | | 1,706.05 |

CR.

| | | | |
|---------------|-----|------------------|----------------|
| 1865. | | | |
| Nov. | 9. | For goods | \$510.76 |
| | 24. | Do | 971.59 |
| Dec. | 2. | Do | 42.50 |
| 1866. | | | |
| Jan. | 30. | 24 samples | 7.92 |
| | | | <hr/> 1,532.77 |
| Balance | | | 173.28 |

TAYOLITTA, *March* 14, 1866.

Mr. ARCADIA SARCAYA:

In compliance with your wishes, I send you your account with this negotiation.

I am your attentive and sincere servant,

THOS. J. BARTHLOW.

20

HACIENDA LA ABRA SILVER M^g Co.,
Tayoltita, March 15, 1866.

SEÑOR D. JUAN DE DAVALOS, *San Javier* :

DEAR SIR: In reply to your favor of 13th, beg to say that Messrs. Echequran, Quintana & Co. have sent me for collection a draft drawn by Señor Dn. Gregorio Blanco on you for \$656, and also one drawn by same on Señor Dn. Francisco Torrero for \$611.96; these drafts I will send down by the first opportunity.

I notice your remark that you have purchased some of my drafts on Messrs. Echequran, Quintana & Co., and that you desire to pay these to me on this 20, which will be entirely satisfactory, and you can so inform Señor Dn. Francisco Torrero.

Your obt^t servant,

TH. J. BARTHOLOW.

[*Traducción.*]

En respuesta á la favorecida de V. fecha 13 del corriente digo, que los Sres. Echequran, Quintana y Ca. me mandan coleccionar una libranza girada por el Sor. Blanco contra Vd. por \$656, y al mismo tiempo una libranza por el mismo. Contra el Sor. D. Francisco Torrero por \$611.96, estas libranzas las mandase con la primera oportunidad.

Noticio á Vd. que quedo entendido que Vd. ha comprado algunas de mis libranzas contra Echequran, Quintana y Compa., las cuales segun entiendo V. decide pagarme con ellas en este cuenta, lo que sera para mi enteramente satisfactorio lo mismo que podra Vd. informar al Señor Dn. Francisco Torrero.

Su ovedte. servidor,

HACIENDA LA ABRA SILVER MINING Co.,
Tayoltita, March 17, 1866.

SEÑOR EL ADMINISTRADOR DE RENTAS,
San Ignacio :

DEAR SIR: The bearer of this, Mr. William Scott, goes to San Ignacio under my instructions to pay the taxes on the goods I have purchased to supply my miners and laborers, which goods have been received here, on which I am informed through several sources that you or some one else holding office under the Republic of Mexico have determined to force from me as a tax upon these goods a tariff of sixty-five per centum. I cannot believe that any officer of this *Republic* can be induced to perpetrate such an outrage upon a citizen of the *United States*, the only *Government* on the globe which recognizes this *Republic* and is giving it moral and substantial aid in her present conflict with *Maximilian* and his *European allies*. If such a tax as this is imposed upon me I desire *General Coronna* to send here an officer empowered with written authority to take of my effects sufficient to pay it, for I shall, if anything like this sum is demanded of me, put my goods and property under the protection of the flag of the *United States*, and from under it I intend they shall be taken. At the same time I shall offer no other resistance to any legal officer of the Mexican Republic than to enter my solemn protest against it and appeal to my Government at Washington; and, besides, if this large tax is collected from me, I will be thereby compelled to close up all my business here, abandon my property, and return to the *United States*, for this course will save more money for my partners and myself than to continue operations here any longer under such enormous taxes. No business can stand such, neither in Mexico nor in any other country in the world. My partners and myself have purchased a hacienda and mines here, for which we paid cash \$50,000.00; are now building machinery which will cost besides \$65,000.00. This large amount of machinery will be completed and operating in four months if I am not compelled to stop work on it by these large taxes and restrictions, but, as before stated, if anything like such a tax as sixty-five per centum is imposed upon my merchandize I had better at once abandon my work, pay off and discharge miners, mechanics, and laborers, and of these I have in my employ thirty Americans and one hundred and fifty Mexicans (these latter

21 Mexicans are wholly dependent on me for their daily food), and leave the country until a time shall come when Americans (citizens of the *United States*) can find that security and protection from the Republic of Mexico which they are entitled to receive, and which the minister plenipotentiary of the Republic of Mexico at Washington (the capital of the *United States*) assured my company before we embarked in this enterprise we should have.

Now, I am willing and anxious to pay any just and legal internal tax that the laws of the Republic require, but as I have already paid at Mazatlan the *import duties* upon my goods to the imperial authorities who occupy that port, there is no legal right or justice in the officers of the Republic occupying the interior in demanding of me the payment again. It is the misfortune of the Republic that it does not occupy the port of Mazatlan, and certainly is not my fault.

If Mr. Scott can make an equitable and just settlement with you for the payment of a fair and legal tax he is fully empowered by me to do so; if, on the contrary, he cannot, then he is instructed by me to take a copy of this letter, which I have given him for this purpose, to General Corrona and make the payment direct to him.

Your ob't servant,

TH. J. BARTHOLOW,
Superintendent.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, March 17, 1886.

Señor El GENERAL CORRONA,
Commanding forces of Republic of Mexico, in Sinaloa:

DEAR SIR: I enclose you herein a letter, a duplicate of which I have forwarded to Señor El Administrador de Rentas, at San Ignacio. By reading this letter you will understand the matter in controversy between this officer and myself; and there is, therefore, no necessity of my repeating my arguments in that letter to you.

Now, general, whilst I have not had the pleasure of making your personal acquaintance, yet I have for nearly a year during my residence in this country become well acquainted with you from reputation, and entertain for you a high regard for the character you have amongst a large majority of your countrymen, who have been living under your rule, and I know that you cannot from your sense of justice permit the operations of my company, which are on a large scale, to be brought to ruin and compelled to cease from the imposition of such enormous taxes as the officer at San Ignacio threatens to impose upon me.

During the late revolution in my country I held for two years under the Government of the United States the same rank and command which you hold under your Republic, and as a brother soldier of a neighboring and friendly Republic I appeal to you for justice, and I feel my appeal will not be in vain.

Mr. Scott, the bearer, will give you such details regarding this matter as you may require.

Truly, your friend and ob't servant,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, March 17, 1886.

Messrs. ECHURURAN, QUINTANA & Co., Masatlan:

GENTLEMEN: I beg to acknowledge receipt of your favor of 9th inst., enclosing a package of letters, which the ag't of Wells, Fargo & Co. failed to deliver in time to be forwarded by Mr. Loaliza, and also two drafts drawn by Gregorio Blanco; one on Franco Torrero for \$611.96, and the other on Juan de D. Dabalos for \$656, which, in accordance with your request I will collect and place proceeds to your credit.

I enclose herewith Spanish invoice, consul's clearance, and bill of lading for a lot goods which came to me on the last steamer, which my agent in San Francisco has again sent to me instead of to you, notwithstanding when I ordered the goods I especially called his attention to the matter, and requested him not to make the mistake again. I hope, however, duplicates of these papers have been sent to you. If not, I fear Mr. Wilson's mules will have to return without cargass. If they do, I will be subjected to a heavy expense and considerable delay. This is annoying, for in this lot of goods are some tools and a circular saw, which I am daily in great want of.

Truly, your friend,

TH. J. BARTHOLOW.

22 *Nuestra Señora Guadalupe Mining Co., in account with La Abra Silver Mining Co.*
1886.

| | | | |
|----------|----------|--|--------|
| March 2. | To 1, at | flour | \$4.50 |
| 4. | " | paper | 1.50 |
| | " | am't rations, by Petrenilo's order | 6.50 |
| 24. | " | paper | 25 |
| 28. | " | sugar | 1.00 |
| 29. | " | 1 shawl, per Juan Gonzales | 10.00 |
| 8. | " | cash | 10.00 |
| 17. | " | do. paid Petrinilo | 36.38 |
| 25. | " | do. handed you | 100.00 |
| 28. | " | do. for 6 cargass from Comacho | 60.00 |

\$230.13

Hacienda, La Abra Silver Mining Co., Tayoltita March 31, 1886.
Received payment,

TH. J. BARTHOLOW,
Superintendent.

HACIENDA, LA ABRA SILVER MINING Co.,
Tayoltita, April 6, 1866.

Messrs. ECHEGURAN, QUINTANA & Co., *Mazatlan* :

GENTLEMEN: I beg to advise you that I have collected the two drafts you forwarded to me on parties in San Jarvier; amounts \$611.96 and \$656—total, \$1,267.96; which sum I have passed to your credit.

I have at last, after meeting with almost extraordinary success in getting my machinery and effects transported without loss or delay, and my works here rapidly approaching to completion, met with a loss by the robbery of Mr. Scott, one of my employes, to whom you will remember you paid a short time since on my account \$1,000. This money, and a small amount besides, was taken from him the day he left Mazatlan by six or seven armed men at a place on the road a few miles from Comacho. The whole loss to the company is \$1,178, and is lost, of course, beyond the chance of recovery. Fearing occurrences of this nature, I have invariably pursued the plan of not trying to transmit by any one messenger any very large sum, for I have known it was involved in risk. In consequence of this loss I may have to overdraw my account with you to a limited extent, as I do not wish to draw a draft on the company by the April steamer, but by the May steamer I will draw for ten thousand dollars, which draft I will forward you in due time.

Messrs. Weil & Co., San Francisco, of whom I purchased the tobacco which came by the last steamer, request me to have forwarded to them the landing's certificates of this tobacco to enable them to cancel their bond. This I presume is necessary, from the fact that the article of tobacco pays an internal tax to the United States of 40 c's p'r lb., but if exported from the country the Government refunds to the exporter this tax; hence the request of Messrs. Weil & Co. Please attend to this matter for those gentlemen. All the goods forwarded by Mr. Wilson came to hand in good order, and all I had purchased came except one bag dried peaches and one bag dried pears. Please take care of these until I can send for them.

I shall order by the steamer of the 16th instant a lot of flour and some few other things from San Francisco, which will be consigned to you, and I will again try to get the Spanish invoices and bills of lading inclosed to you instead of to me, as was the case with my two last shipments.

My work here is progressing very well. Some delay has occurred from sickness of some of my mechanics. Ague and fever is quite prevalent here. All of us have been more or less affected by it. Our water-wheel is completed, the battery is built and set up in its place, and nearly all the other wood work is finished. The stone work of the mill walls are partially built on this stone work. We will build brick walls; are now burning a kiln of 85,000 brick for this and other purposes. Our iron work is a little behindhand, but I am trying hard to get it up, and hope to do so soon.

Our pile of ore is now increased to fully, if not over, five hundred tons.

Your friend,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MINING Co.,
Tayoltita, Mexico, Ap'l 10, 1866.

Messrs. WEIL & Co., *San Francisco* :

GENTLEMEN: Your favor of February 27th came to hand by the March steamer; but as this hacienda is distant nearly one hundred and fifty miles from Mazatlan, there was not sufficient time to answer by return steamer.

23 Herewith please find draft (original and duplicate) of my firm, Bartholow & Bro., in your favor on Messrs. W. P. Converse & Co., New York, for one thousand dollars (gold coin), which please pass to my credit, with current rate of exchange for the balance that will be left in your hands, after paying my account to you, I will draw for to pay some other bills I am owing in your city.

I have written to Messrs. Echeguran, Quintana & Co., Mazatlan, to forward you the landings certificates as you request in your letter.

One of my employes, who is a very large man, cannot get clothing here sufficiently large to fit him, and I will thank you to purchase and forward by Wells, Fargo & Co.'s express to me, to the care of Echeguran, Quintana & Co., Mazatlan, as follows:

One-half doz. linen shirts 15½ inches neck, 44 inches breast, 24 inches in the arms; and 3 pairs pants, one pair to cost about \$10, and the other two strong working-pants, to cost \$7 to \$8; size, 34 inches waist, 43 inches hips, and 36 inches legs; have this package marked wearing apparel and charge cost to my account.

Your friend,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, April 10, 1866.

Messrs. BRODIE & Co.,
San Francisco :

GENTLEMEN: Inclosed I hand you my check in your favor on Messrs. Weil & Co., for two hundred and eighty-seven $\frac{1}{2}$ dollars, the amount you purchased of Messrs. Conroy & O'Connor for the company and which you say those gentlemen charged to you.

I am not much given to entering complaints, unless the cause is great, and I have such a complaint to enter against you; it is this: When you shipped the pulley which Mr. Bordwell ordered, from Mazatlan to replace one that was broken, you forwarded the bill of lading and Spanish invoice to me, instead of inclosing these important documents to Messrs. Echeguran, Quintana & Co., Mazatlan, the consignees, and when I ordered the last lot of goods from S'a Francisco, the shipping of which I entrusted to you, I wrote you specially with regard to this error and requested that you would not again commit it. Under these circumstances, feeling sure that you would not, and wanting the goods badly, I started a train of mules to Mazatlan to meet the steamer on her arrival to get the goods up without delay, but imagine my surprise at receiving a week after the departure of said train your letter inclosing the bill of lading and Spanish invoice; here was a pretty fix, the goods in the custom-house in Mazatlan, my mules on expense, and the documents necessary to get the goods out of the custom-house 150 miles from it. Had your intention not been called to the fact it might have been excusable, as was the case the first time, but to commit the same error again is, to say the least of it, culpable neglect, and you ought be made to pay the loss occasioned by it. I returned the documents to Mazatlan by a special messenger and got the goods passed and have since received them here.

I have ordered some flour from Messrs. Weaver, Wooster & Co., and some fuse from Messrs. Edw'd H. Parker, to be shipped by the next trip of the Stephens, and I want from Conroy & O'Connor 2 dozen Wright's mining picks, which you will get for me and ship with these goods. Please try to make the shipment properly and send the bill of lading and Spanish invoice to Echeguran, Quintana & Co., and not in a letter to me, directed to the care of this firm, as you did twice before, as these gentlemen do not feel themselves authorized to open my letters. I have written to Messrs. Weaver, Wooster & Co., and Ed. H. Parker, that you would attend to the shipping, &c.

Your friend,

TH. J. BARTHLOW.

P. S.—Why has Conroy & O'Connor charged $2\frac{1}{2}$ per pound more for the hammers you purchased of them than they charged me for those I purchased? I think they ought to reduce them to the same price.

B.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, April 10, 1866.

EDW'D H. PARKER, Esq're,
San Francisco :

DEAR SIR: Your favor of Feb'y 26th, enclosing invoice of fuse, amounting to \$182, came to hand by the March trip of the John L. Stephens, but not in time for me to answer and remit by her return trip, as this place is distant 150 miles from Mazatlan through a country possessing no mail facilities whatever.

24 Herewith I hand you my check on Messrs. Weil & Co., of your city, for one hundred and eighty-two dollars to balance my account; and please forward per return steamer 30,000 feet dry safety fuse, \$5; 10,000 feet double-tape fuse, \$14.

Messrs. Brodie & Co. are instructed to attend to the shipping of this fuse, as before. I have tried the low-priced \$5 fuse, and find it to answer a good purpose in a dry mine.

Your friend,

TH. J. BARTHLOW.

HACIENDA, LA ABRA SILVER MINING CO.,
Tayoltita, April 10, 1866.

Messrs. WEAVER, WOOSTER & Co.,
San Francisco :

GENTLEMEN: Your favor of February 26th, covering invoice of provisions, &c., amounting to \$292.93, came to hand by the March trip of the John L. Stephens, but did not reach me in time to answer and remit by her return trip, as this place is distant 130 miles from Mazatlan, in a section possessing no mail facilities whatever.

Herewith I hand you my check on Messrs. Weil & Co., for two hundred and ninety-two ⁸⁸/₁₀₀ dollars, to balance my said account. You will please forward by return steamer 100 bags flour, 98 or 100 pounds each, enclosed in gunnies; flour of same quality I purchased of you in November. Messrs. Brodie & Co. will attend to the shipping, as before.

Your friend,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MIN'G Co.,
Tayoltita, April 10, 1866.

DAVID J. GARTH, Esq're, New York:

DEAR SIR: Since my report of March 6th, wherein I wrote you fully with regard to my operations up to that date, I have no letters from either you or any other member of the company to reply to, as none came by the March steamer, therefore I proceed to detail events and progress of the month past. Our water-wheel is complete, ready to receive the gearing, the wooden portion of the battery, composed of over sixty large sticks of square timbers, all of which are dressed, bolted together, and set up in their proper places, all solid and on an enduring foundation, and now ready to receive the iron mortar-bed; the walls of the mill-house, that is the rock portion of them, are progressing, the one nearest to and running parallel with the river is completed to its entire height; a portion of the side walls are up to a considerable height; these I will cap with walls of brick and build cross-walls of same, and on the top of all we will erect brick columns to support the roof; have just burned a kiln of 85,000 American brick for this and other purposes. The tail-race is graded by blasting for most of the distance through large granite boulders, and is ready for the walls and arch. We have yet a little more blasting to do to get the floor of the mill down to a proper level. You would be astonished to see the quantity of rock we took out of the foundation and the *débris* caused by tearing down Castillo's old works. Most of it will be used in the new walls and in filling around the new battery. Besides, nearly all the timbers which are required to build up foundations and supports for the pans, settlers, and concentrators are dressed and ready to be set up. The pulleys, seven in number, with the exception of two of the smallest, are framed and completed; these two will be finished in a few days; in short, the carpenters' work is finely ahead. The blacksmiths' work is somewhat behindhand, and must be so for some time, as we have but one forge and only tools for it, consequently but one man can be worked to a good advantage, but as our blacksmith is a fast worker I think we can manage to get this branch up in due time. Sickness to some extent has also impeded us, as at different times nearly every man on the hacienda has had ague and fever; then, of course, one to two days' time lost by the party affected. I have had two attacks myself since my return from California, and they have pulled me down in flesh considerably. Why this country at this season of the year, where there has been no rain since last October, should engender ague and fever I am at a loss to divine, yet such is the fact.

Our ore pile is regularly and steadily increasing; the stock on hand is between 550 and 575 tons, and hereafter El Cristo will steadily increase its yield, as we have "struck" ore in the new tunnel; consequently the quantity taken out of the tunnel will be in excess, and in addition to what comes from the shaft in the upper works this tunnel, which has not cost over \$500, is one of the best investments the company has made, for all the ore detached in it can be taken out in wheel-barrows, thus dispensing with the packing in leather bags, which is slow and expensive, when
25 the shaft from above shall be intersected with this tunnel, which will lay bare and expose 75 feet perpendicular of the vein; almost any requisite amount of ore can be obtained from this mine. This intersection, Mr. Cullins thinks, can be accomplished in 8 months, and the beauty of it is the company is re-imbursed all the time in ore for the outlay.

To give you a better idea than I could do by detailing the transactions in this letter of one of the many difficulties I have to meet and overcome, I enclose you a letter that I wrote to the collector of taxes at San Ignacio, which explains itself. The result was, instead of paying taxes to amount of three or four thousand dollars, as was demanded, we only paid about \$30, and there was no necessity of troubling Gen'l Corona with the matter. In consequence of the unsettled state of the country and the presence of bands of robbers on and near the roads leading from here to the port, I have had a great deal of trouble to get money from time to time transported to pay my hands and other expenses, and in consequence I was, of course, unwilling to risk any very large sum at one time; yet, when we were getting timber and doing other work which required a great many Mexican laborers, we frequently needed \$1,000 per week, and of course all that the proceeds of the sales of goods did not supply, had to be brought from Mazatlan, but I so managed it that we never had more than from \$1,500 to \$2,000 at risk at one time, and all came through safe except in one

case. This occurred some two weeks ago, when I sent Mr. Scott to San Ignacio to settle our taxes with the authorities. I gave him a check on Messrs. Echeguran, Quintana & Co., for \$1,000 to bring up. Besides this he had some money outside of this sum which was left after paying the taxes in San Ignacio. He got the money as directed and started out of Mazatlan to overtake a train which was bringing up some supplies for us and Mr. Rice, and when about twenty miles out from the port, near the town of Comacho, six or eight armed men sprang into the road and with their guns leveled upon him forced him to dismount, and robbed him of \$1,178 in money, his pantaloons and boots (the latter, however, being No. 12, were too large for any of the villains, and were returned). He immediately informed the nearest commander of the Liberal forces of the fact, who sent for him for the purpose of identifying the robbers. He complied, but could not find them, for the reason that the officer could not find even half his men. I also at the same time opened a correspondence with Gen'l Corrona through the prefect, Col. Jesus Vega, at San Ignacio, who by the way is, I think, one of the most perfect gentlemen I have met in the country, and I am of the opinion that but for the turn in military affairs which occurred a few days since, we would in some way or other have been re-imbursed for the loss, but now I have no hopes whatever, and we may as well charge up \$1,178 to profit and loss. This military change to which I have made allusion is this: For several months past Gen'l Corona, with a very considerable Liberal force, has occupied all the country around Mazatlan, frequently skirmishing with the French troops almost in the streets of that city, but avoided risking a general engagement until about 18 or 20 days ago, when the French sent out a force, as report says, of 1,000 men. These Corona attacked and defeated with severe loss, capturing, it is said, some 5 pieces of artillery and a quantity of small arms. This success, of course, elated the Liberals and their friends very much; many of them thought they would soon be in possession of Mazatlan, but the chances of war are very uncertain, for a few days afterwards Lozada, an Indian, at the head of quite a considerable force of Mexicans and Indians in the Imperial service, came up from the south. Gen'l Corona attacked him and was repulsed, and in retreating met a large force which had been sent out from Mazatlan. The result was the total rout and almost entire dispersion of the Liberal army.

Dr. Hardy and Mr. Griffith was in San Ignacio when the advanced guard of the retreating army entered or rather passed through that place on their way to Cosala. They say the scene beggars description. The officials were at the time having a jollification over Corona's victory, which the entry of several general officers, with the information of their great disaster, changed immediately into a panic. The entire population of the place commenced to pack up what effects they could transport and to leave as fast as possible. The entire population has probably left, for fear of being killed by Lozada's Indians. And as the Liberals destroyed La Noria a few months since and confiscated a large amount of the property of its citizens, a good portion of which was carried to San Ignacio and consumed, it is thought the latter place will share the same fate. Under this state of affairs, much as Col. Vega and Gen'l Corona might desire to make good our loss, they are not now in a condition to do so.

I learn that the Imperialists design to garrison several of the towns between here and Mazatlan and restore their civil officers. Should they do so the road will be made more secure, and some of those robber bands commenced to steal in that road.

I wrote you fully in my last letter detailing the circumstances of the murder of William Grove and the finding of his body. Since then the liberal authorities have taken the matter in hand and arrested one of the murderers at this place. The villain was actually in our employ, doubtless for the purpose of ascertaining when an opportunity should offer to waylay and murder another of our men if the prospect for plunder was sufficient to warrant the risk. When the officers arrested I had 26 him conveyed to the blacksmith shop and securely ironed. The next day he was conveyed to San Ignacio and thence to Cosala, where he was tried. We failed to convict him for the murder of Grove, but was convicted for the murder of a woman, who he killed previously, and sentenced to be shot, and before the execution of the sentence he confessed the murder of Grove, and revealed the names of his two confederates; these two would have been arrested before this but for the expulsion of the Liberals from the country. Now we will have to wait for the Imperialists to put their officers in power before we can act any further in the matter.

Our store is doing an excellent business. Our goods and supplies pay liberal profits, and I am confident when our mill and buildings are completed and our mining and mill-work systematized as it should be, the store if kept well supplied will run the entire concern, thus reducing the cost of our labor about fifty per cent. To manage successfully this business in all its varied branches will require one of the most thorough and practical men of business that can be found. The fact that a man understands the amalgamation of ores and the process of working them is not evidence that he is competent to be your superintendent, unless he possesses the qualifications above mentioned in addition. Competent amalgamators can be employed in California and Nevada, and some are here out of employment, and I could employ one

to come when we were ready for him, but from the tenor of your last letters I judge you intended to take this matter out of my hands. This, however, is usually the case with many men. They imagine, while sitting in a comfortable office in New York, that they are more competent to manage the details of a large business in Mexico than the person on the ground and in charge of it. I have learned a good deal from experience in my management here, and after a task and labor that has been almost herculean, I have succeeded in bringing order out of chaos, and got our affairs well systematized and working with harmony and regularity in all its branches.

Up to April 1st, our ore from the La Luz and El Cristo mines, say at that time 500 tons, 400 of which was on the patio, had cost nine thousand dollars; this included the amount paid Castillo for working La Luz from June until we took possession, and the expense of making the new tunnel in El Cristo, or an average of \$18 per ton. We have reduced this average to \$15, delivered on the patio, and I think a further reduction may be calculated upon.

You wrote me for a statement of the books up to the 1st January; this I do not send for the reason that everything is in an unfinished state, and it would be impossible for me to render any statement that would give satisfactory information to the co., but when the works are completed and I return I will bring home a full statement of every account on our books which shall show the entire cost of the mill and buildings, the amount of ore on hand, and its cost, together with a statement of the business of the store; in short, a full and complete statement of the whole affair while in my charge. I purchased a set of books in San Francisco, and am keeping them myself, in double-entry form, and you may rest assured that for every dollar that passes through my hands shall be properly and amply accounted for; besides, with my manifold duties, which, since my return from San Francisco, have required my constant and whole attention, so much so, that I have not now the time to make an abstract from the books.

Y'r fr'd,

TH. J. BARTHOLOW.

La Abra Silver Mining Co. in account with Narciso Morga and Antonio Serabio.

Narciso Morga, as follows:

| | |
|---|---------|
| For freight on 17½ cargas corn, at \$5, for Mr. Rice..... | \$84.75 |
| " " " 17 c. 3½, at 5½, for Mr. Rice..... | 90.00 |
| " 1½ cargas beans, at \$14, for Bartholow..... | 17.50 |
| " 5½ " corn, at \$7, for Bartholow..... | 38.50 |
| " packing ore from La Luz for Bartholow..... | 8.25 |

243.00

Paid as follows:

| | |
|--------------------------|--------|
| By Jos. G. Rice..... | \$8.25 |
| " cash, Bartholow..... | 4.00 |
| " Bartholow's check..... | 230.75 |
| | 243.00 |

27 Antonio Serabio as follows:

| | |
|--|--------|
| For freight on 6½ cargas corn, at \$5, Mr. Rice..... | 31.25 |
| " " " 5 c. 12 al, at \$5½, Mr. Rice..... | 28.81 |
| " " " 28 c. 4 al, at \$5, Bartholow..... | 140.83 |
| " " " 26 c. 1 al, at 5½, Bartholow..... | 136.75 |
| " " " ore ex. La Luz, Bartholow..... | 11.81 |

349.40

Paid as follows:

| | |
|-------------------------------|----------|
| By cash by Bartholow..... | \$25.00 |
| " merchandise, Bartholow..... | 1.96 |
| " cash, Bartholow..... | 10.00 |
| " Bartholow's check..... | 312.44 |
| | \$349.40 |

Hacienda La Abra Silver Mining Co., Tayoltita, April 8, 1866.

TH. J. BARTHOLOW, *Sup't.*

HACIENDA, LA ABRA SILVER MIN'G CO.,

Tayoltita, April 10, 1866.

Señor Dn. ANGE CASTILLO DE VALLE,

Durango:

DEAR SIR: I am in receipt of your esteemed favor of 21st ultimo, and also the goods to which it relates; these came to hand in good order and just in time, for at the date of their arrival we had used up the last pound of our powder, and but for the timely arrival of this train the work in our mines would have been stopped.

The translator who interpreted to you my letter ordering these goods made a sad havoc with the translation. I ordered in my letter of Feb'y 21st eight cargas tallow, and you have sent me in place of tallow *eight cargas soap*. Whilst this error will not result in much loss, yet it gives me an overstock of soap at a higher price than I had supplied myself at Mazatlan, and besides puts me to great inconvenience in consequence of not getting the tallow I had ordered, and I now beg that you will forward to me with as little delay as possible:

8 or 10 cargas tallow, which I am greatly in need of for the purpose of making into candles. On the 13th of March I ordered from you 4 cargas costales (12 arrobas each), 1 box cigarros (dobles), 1 box puros (8 in a bunch), and 5 cargas powder. If these goods are not yet forwarded please send them with the above-mentioned tallow.

Your friend,

TH. J. BARTHOLOW.

HACIENDA, LA ABRA SILVER MIN'G Co.,
Tayolitta, April 13, 1886.

Señor Don JOSÉ JUAN DIAS,
Santiago:

DEAR SIR: In reply to your favor of 6th inst., I beg to say that I cannot afford to pay five dollars (\$5) for sheep, as beef here is much cheaper, consequently I am not willing to purchase at the price you name.

With regard to corn, I am desirous to purchase at the price you name, two dollars (\$2) per carga, and the freight in proportion, which is, as I understand it, \$5 per carga to San Dimas from Santiago, or about that rate. You, however, ought to have stated the price according to your views, i. e., that is, the price of freight.

The flour I purchased of you last was of bad quality, and I do not want to buy any more like it, but if you will bring good flour I will purchase it at the market price. I have a good stock of lard, and do not wish to buy any more, but I will buy red pepper at a fair price, say \$4.50 per arroba. With regard to purchasing your mules, as mentioned in your letter, I beg to say that there are several Americans here who will buy mules of good quality at a fair price.

Your friend,

TH. J. BARTHOLOW,
Superintendent.

P. S. I have plenty of packing for your mules here at fair prices and will have for several months.

28

HACIENDA, LA ABRA SILVER MINING Co.,
Tayolitta, April 27, 1886.

Messrs. ECHEQUAN, QUINTANA & Co.,
Mazatlan:

GENTLEMEN: Your favor of 17th inst., covering account current, is at hand, and in reply beg to say that I have examined the latter and find it correct so far as I am able to judge of the items which are other than my drafts, with the exception of your charge of \$280.60 for disbursing our money. This, I must say, I regard as an enormous charge. I have for the past twenty years kept accounts in Europe and the United States with chartered banks and firms, and this is the first instance such a charge has been made against me.

It seems to me that the duties on the last 30 pkgs. received from San Francisco are enormously high, viz, \$452.62. The entire cost of the goods in San Francisco was less than \$1,000, and one-third of them were mining tools. Has there not been some error committed in settling these duties?

I will see that Mr. Wilson pays the \$68.46 he is owing you. I have never seen the landing certificate of the Tobo. All the documents relating to that shipment which came to me I forwarded to you.

Col. de Layneil and myself will start down to the port about the 7th proxo., when I will draw a draft on Mr. Garth for \$10,000 in favor of Bank of California, and on the latter in your favor for a like sum for my credit. While in Mazatlan I will turn the superintending of the co. over to Col. de Lagniel, who has been appointed to succeed me.

I am worked down by my great exertions of the last four months. My health has given way materially.

Y'r friend,

TH. J. BARTHOLOW.

The Durungo Silver Mines in $\frac{3}{4}$ current with La Abra Mining Co.

| | | | |
|-------|-----|--|--------|
| 1865. | | | |
| Oct. | 21. | To 2 lbs. black tea, at 2.50..... | 5.00 |
| 1866. | | | |
| | 11. | " 25 lbs. pork and bacon, at 50c..... | 12.50 |
| | | " 8 lbs. pickels, at 25c..... | 2.00 |
| | | " 16 $\frac{1}{2}$ lbs. butter, at 75c..... | 12.37 |
| | 20. | " 1 bunch envelopes..... | .25 |
| | | " cash paid for rubber coat in San F..... | 32.12 |
| | | " your order paid..... | 17.00 |
| | 1. | " 3 boletas enclosed to you..... | 150.00 |
| | 2. | " cash pd. Grassie by Dr. Hardy..... | 3.00 |
| | | | 80.00 |
| | | | 83.00 |
| | 19. | " 350 lbs. greta, 10c..... | 35.00 |
| | | " 60 lbs. Mexican steel, at 30c..... | 18.00 |
| | | " paid freight on same to San Dimas..... | 3.00 |
| | 25. | " quinine and blue mass..... | 1.50 |
| | 27. | " 4 American axes, 3.50..... | 14.00 |
| | | | 71.50 |
| | 31. | " 1 bot. wine (omitted)..... | 2.00 |
| | 2. | " 5 lbs. dried apples, at 37 $\frac{1}{2}$ | 1.87 |
| | | " brandy and gin for Mr. Carr..... | 6.50 |
| | | | 8.37 |
| | 10. | " cash paid Mr. McEwen by Scott..... | 33.00 |
| | 31. | " bill m'd'ze by Mr. Carr..... | 66.00 |
| | 8. | " 1,000 feet fuse returned..... | 20.00 |
| | | " paid Antonio Savia, packing corn..... | 230.56 |

CREDIT.

| | | | |
|-------|----------|-------------------------------------|-------------------|
| 1865. | | | |
| | 1. | By merchandise per bill..... | 106.50 |
| 1866. | | | |
| | 12. | " 1,200 feet fuse..... | 24.00 |
| | 16. | " 2 lbs. 2-oz. solder..... | |
| | 22. | " 1,000 feet fuse..... | 20.00 |
| Mar. | 15. | " cash, \$200, collection, \$6..... | 206.00 |
| 29 | 1866. | | |
| | Apr. 10. | By one share corn purchased..... | 225.96 |
| | | " quinine and potassa..... | 10.19 |
| | | " collection..... | 2.00 |
| | | Bal'ce..... | 118.90 |
| | | | \$713.55 \$713.55 |

May 1, to balance due La Abra, \$118.90.

The Guadalupe Mining Co. in $\frac{3}{4}$ with La Abra Silver Mining Co.

| | | | |
|-------|-----|--|---------|
| 1866. | | | |
| April | 1. | To cash pd. taxes at Quilita..... | \$19.10 |
| | | " " pd. Correll's bill at Clark's by Wilson..... | 2.25 |
| | 12. | " 1 bot. wine..... | \$1.50 |
| | | " salt..... | .50 |
| | | " 800 brick (floor brick)..... | 12.00 |
| | 18. | " 1 bot. sweet oil..... | 1.00 |
| | 23. | " 1 lb. steel..... | .38 |
| | | " 1 bundle cartridge paper..... | 1.25 |
| | | | 16.63 |
| | | | 37.98 |

Rec'd payment,

TH. J. BARTHOLOW,
Superintendent.HACIENDA, LA ABRA SILVER MIN'G CO.,
Tayoltita, May 1st, 1866.

HACIENDA LA ABRA SILVER MINING CO.,
Tayoltita, May 4, 1866.

Señor Don ANGEL CASTILLO DE VALLE,
Durango :

DEAR SIR: I am in receipt of your favor of 24th ultimo, advising me of your having forwarded the tallow which I had ordered. For your prompt compliance with my request in this case I thank you.

| | |
|---|------------|
| Enclosed please find my check on Mess. Echeguran, Quintana & Co., | |
| Mazatlan, in your favor, for..... | \$2,760.59 |
| Add goods furnished Don Juan James | 74.18 |
| Add cash furnished same..... | 10.00 |
| Amount | 2,844.77 |

This is the amount of your invoice of January 8th, and which you will please pass to my credit. My clerk, in rendering you the $\frac{9}{10}$ made by Don Juan James, forgot to add to it the ten dollars which that gentleman got in cash, and which he will doubtless recollect.

Col. J. A. de Lagnel has been sent by the comp'y in New York to relieve me, which is a source of great satisfaction to me, as my health has become seriously impaired, rendering it necessary that I leave the country. You will find the col. a gentleman of intelligence, and I trust your business relations with him will be as pleasant and satisfactory as mine has been to me.

Very truly, your friend,

TH. J. BARTHOLOW.

HACIENDA LA ABRA SILVER MINING CO.,
Tayoltita, May 5, 1866.

Col. J. A. DE LAGNEL:

SIR: In reply to your note of this date I beg to say that I am too unwell to collect up, credit, and pass same on the books of the company the wages due our white employees, but you will find over the name of each employee on the ledger a memorandum of when he commenced work, with the rate of wages we are to pay. I will, however, call in to-day and to-morrow all our employees and get them to acknowledge the correctness of money and merchandise charged to them.

I enclose a memorandum of outstanding contracts yet to be filled, either partially or wholly.

30 I also enclose a memorandum of the mines, their names, location, claimed by the company. All that we are not now working are under "prorogue" until July, when you should make application through Don Angel Castillo de Valle, Durango, for an extension of the prorogue.

I also enclose a memorandum of goods and supplies, which I think the company will require to aid its operations during the ensuing rainy season.

The company own 12 mules and 10 aperajos. The titles to these mules I believe to be good.

With respect,

TH. J. BARTHOLOW.

HACIENDA MINA DEL ABRA Y CA,
23 Mayo, 1866.

ESTIMADO SEÑOR: En acuerdo con nuestro convenio tengo que anunciarle sobre el resultado de ocho (8) cargas y veinte y ocho (28) panochas y $\frac{1}{2}$ mas diez y seis y medio (16 $\frac{1}{2}$) de panochas quebradas.

Deseo que tiene Vd. consideracion en atencion á la verdad que la panocha no corresponde en peso á la muestra que Vd. me enseño y que pese yo mismo ni satisface á las condiciones de nro. convenio.

El excesivo valor de \$70 por carga solo fue admitido debido al convenio de Vd. bajo las sigtes. condiciones, á saber: Que la carga debia contenes como es costumbre el numero de 768 panochas y pesa cada una ó mejor dicho una con otra debia pesar doce (12) onzas. Delante de algunas personas he pesada varias partidas de veinte y cinco (25) y treinta panochas y he hayado que el peso mas alto de cada panocha es de diez y media (10 $\frac{1}{2}$) onzas una con otra y algunas con peso á razon de diez (10) onzas.

Con tal motivo tendre la panocha en la bodega y deduciré el porciento que corresponde á la perdida ó falta habida, la cual aumenta hasta cerca de un catorce (14) por ciento.

Sirvase V. contestarme al instante conviniendo en que la diferencia habida en la panocha vendra á ponerla como acerca de sesenta (\$60) por carga, y es lo mas que estoy preparado á pagarle segun los limites de nuestro convenio.

Fiando en que casi sera igual la diferencia por el cargo que propongo.

Como siempre su ato. y S. S.,

J. A. DE LAGNEL.

Sor. D. PATRICIO LOPEZ,
San Juan.

[Translation.]

HACIENDA OF LA ABRA SILVER MINING CO.,
May 23rd, 1866.

DEAR SIR: In accordance with our agreement I have to inform you of the receipt of (8) eight cargas of corn and of twenty-eight (28) pieces of raw sugar (panocha), besides sixteen (16½) and a half pieces of raw sugar broken up (panocha quebrada).

I wish you to consider, in attention to truth, that the raw sugar does not correspond in weight to the sample that you showed me and which I weighed myself, neither does it satisfy the conditions of our agreement.

The exorbitant price of \$70.00 per carga was only admitted, thanks to your agreement, under the following conditions, to wit: That the carga was to have, as is customary, 768 pieces of raw sugar (panocha), and that each piece was to weigh on an average (12) twelve ounces.

I have weighed before several persons lots of seventy-eight and thirty pieces of raw sugar (panochas), and have found that the most they weighed on an average was (10½) ten and a half ounces a piece, and the least ten (10) ounces.

I will therefore keep the raw sugar in the vault and deduct the (per) centage corresponding to the loss or deficit, which amounts pretty nearly to (14) fourteen per cent.

Be pleased to answer me at once, agreeing, on account of the difference found in the raw sugar, to sell me the same at \$60 per carga, as that is as much as I am prepared to pay you, according to the limits of our agreement.

Trusting that in this way the difference per carga will be about even, I am ever your attentive and sincere servant,

J. A. de LAGNEL.

Mr. PATRICIO LOPEZ,
San Juan.

31

HACIENDA LA ABRA S. M. CO.,
26 May, 1866.

DEAR SIR: I have to acknowledge the receipt of your two letters, dated respectively April (brought by Mr. James) and May 15.

The amount of your bill will be paid, as requested, to the house of E. Q. & Co., in Mazatlan, the goods having arrived in good condition and agreeing with the invoice. As to the \$8 paid on account of Gen'l Bartholow, it will be duly credited to you, and you will, in addition, please accept the thanks of the general for your prompt compliance with his wishes.

I return a tomaguis for the Guia No. 123, of April 25th, 1866, and also for the Guia No. 91, of March 20, 1866, but I cannot find the other of which you speak.

Should it be found, the tomaguis will be duly forwarded.

It is with regret that I am compelled to inform you of the fact, but justice to myself requires that you should know that I was not here at the time the first goods arrived.

Trusting to have the pleasure of knowing you personally, I remain, y'rs with respect,

J. A. de LAGNEL.

Sr. D. ANGEL CASTILLO DE VALLE,
Durango, Mo.

HACIENDA DE LA ABRA S. M. CO.,
Tayoltita, 27 May, 1866.

DEAR SIR: Since writing this morning I find myself obliged to address you again in reference to the account of Mr. Juan Tamés, who leaves us to-day for Durango.

He has purchased merchandise amounting to \$135.27, and received cash advance of \$33.62. Against this account he has one for packing metal, amounting to \$128.72, which leaves a balance in the company's favor of \$40.17.

You will please collect this amount from Señ. D. J. Tamés, and place it to my credit. I shall visit Mazatlan next steamer, and will probably secure a letter of credit on your house to meet payments in your vicinity.

Yours, respectfully,

J. A. de LAGNEL,
Agent La Abra S. M. Co.

Señor D. ANGEL CASTILLO, *Durango.*

TAYOLITTA, *Mayo 30 de 1886.*

Sor. D. PATRICIO LOPEZ, *San Juan :*

MUY SEÑOR MIO: Me acuso el recibo de la grata de Vd. fecha del 23 del actual y á la vez de la llegada de la carga con setecientos cuarenta y nueve panes de panocha. Este así como la primera partida falta en el peso convenido entrambos, siendo este menos de doce onzas, ó una falta del cuatro por ciento del peso.

| | |
|--|-----------|
| Las dos partidas resulten de este modo, los primeros ocho cargas (28), veinte y ocho panes con (16½), diez y seis y medio otras de pedasos, equivale á 8 cargas 53 panes y esto con (14) catorce por ciento descuento del peso, vale solamente á razon de sesente pesos por carga 6..... | \$484. 00 |
| La ultima partida consiste de (1) una carga de (749) setecientos cuarenta y nueve panes á razon de (4) cuatro por ciento de el cuento como arriba dicho vale \$67 por c. carga 6 el total de..... | 132. 30 |

Con el total para ambas partidas..... 616. 30

Como tenemos de ver dentro de cinco dias en su casa, en mi camino para el puesto, arreglamos definitivamente nuestra cuenta si conviene Vd. en la justicia de la rebaja que exijo, ó si no, la panocha como no esta recibida quedará á s. o.

J. A. de LAGNEL.

[Translation.]

TAYOLITTA, *May 30, 1886.*

Mr. PATRICIO LOPEZ, *San Juan:*

MY DEAR SIR: I acknowledge the receipt of your favor of the 23rd instant, and also of a (1) carga of seven hundred and forty-nine pieces of raw sugar (panecho).

32 This, as the other lot, is deficient in the weight as agreed upon between us, it being less than 12 ounces, equivalent to a loss of 4 per cent.

The two lots show the following results:

| | |
|--|----------|
| The first of eight (8) cargas, (28) twenty-eight pieces each, and sixteen and a half pieces (16½) broken up, is equivalent to eight (8) cargas of 53 pieces each, which, with a discount of 14 per cent. in weight, is worth only at the rate of \$60 per carga..... | \$484 00 |
|--|----------|

| | |
|---|----------|
| The last lot consists of one (1) carga of (749) seven hundred and forty-nine pieces, which, with a discount of 4 per cent. as above, is worth, at the rate of \$67 per carga..... | \$132 30 |
|---|----------|

Total for both lots..... \$616 30

As I expect to see you at your house in five days, on my way to the port, we shall settle our account, in case you agree in the justice of the deduction which I desire; or, if not, the raw sugar which has not been delivered will not be received.

Yours, truly,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA, *Junio 2, 1886.*

Sr. D. PATRICIO LOPEZ, *San Juan :*

SOR MIO: Por su propio de hoy recibí su carta fecha de ayer, y impuesto de su contenido, digo en contestacion que no me ha causado sorpresa alguna los procedimientos tan poco formales de Vd. en respecto á la compra venta de las diez cargas de panocha.

La culpa lo tengo yo, por haberme tratado con Vd. despues de qua faltó en el cumplimiento de una contrata celebrada con el Sor. Gral. Bartholow. Está V. muy equivocado, al decir que compré la panocha por numero, y no por el peso; pues muy al contrario como pien lo sabe, porque en presencia de V. pesa bamos unos panes para verificar que llegaba este á doce onzas el pan. como me habia ofrecido.

Sin embargo, le remito á V. la L. por \$700, con su propio como me dice a. carta; bien satisfecho en haberle á Vd. conocido, tan luego, y á tan poco costo, pues no hai duda que V. pierde mas que yo, en el asunto.

A pesar que V. representa á que la panocha es de la propiedad de D. Felipe Salcedo como no he tratado con el, en el negocio no la considero con culpa alguna en la mala fé observado por V.

Sin mas asunto, soi de V., S. S. S.,

J. A. DE LAGNEL.

[Translation.]

HACIENDA OF LA ABRA, *June 2nd, 1866.*

Mr. PATRICIO LOPEZ, *San Juan:*

SIR: I received to-day by your messenger your letter of yesterday, and having noticed its contents, I will say in answer that I am not at all surprised at your informal proceedings in regard to the sale of the ten cargoes of raw sugar (panocha).

I am to blame for having dealt with you after your failure in fulfilling the contract made with Gen'l Bartholow. You are very much mistaken when you say that I bought the raw sugar by the piece and not by the weight. You well know, on the contrary, that I weighed before you some pieces to see if they had the weight of 12 ounces you had agreed upon.

I send you, however, by your messenger a draft for \$700, to which you refer in your letter, well satisfied in having known you so soon and at so small expense, as there is no doubt that you lose more than I do in the matter.

Notwithstanding what you say, that the (panocha) raw sugar belongs to Mr. Felipe Salcedo, as I had no dealings with him in this matter I do not lay any blame on him for the bad faith with which you have treated me.

I am, your sincere serv't,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA S. M. Co., *6th June, 1866.*

Mr. W. G. S. CLARKE:

DEAR SIR: Your train, bringing (28½) twenty-eight and one-third cargas has just arrived, and will return at once.

For your efforts in behalf of ——— I have to thank you, as also for your kind attention to Mr. Scott during his sickness.

You will oblige me by correcting a mistake I made yesterday. It was in receipting to Florentino Silvia for twenty cargoes (20) instead of sixteen (16), as was the case.

33 I beg you to stop payment of the four cargas erroneously acknowledged as received, as he informed me the bill would be paid at Comacho, I presume by you, perhaps by Mr. Cole.

I have issued to your arrieros 18 almudes of corn, for which you will settle when I see you in a few days.

As some money was needed to feed your train down I have advanced twenty dollars to the same party.

Respectfully,

J. A. DE LAGNEL.

HACIENDA LA ABRA, S. M. Co., *9 Junio, 1866.*

Sor. D. JESUS MA. GURROLA, *Gavilanes:*

MUI SEÑOR MIO: Como en estos dias debe expirar el termino concedido á la compania que represento; como prorroga para el ampara de las minas de su propiedad, no trabajadas, á razon de las circunstancias bien conocidas y notorias, y como es que todavia no hai esperanza alguna de que normalizan las cosas, he creido necesario pedir una prorroga de seis meses mas, para el cual aqui va incluso el pedido necesario y le suplico á V. que tomar en molestia de atender á ello en la forma debida, y que me lo devuelvan lo mas pronto que pueda convenientemente á la vez me mande carta cuenta de los gastos que puede ocurrir para cuvrilas en el acto.

Despence Vd. la franqueza de tanto molestia á una persona desconocida; pero estoy cierto que es amigo de.

S. áfmo. y S. S. S., Q. B. S. M.,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co

[Translation.]

HACIENDA OF LA ABRA SILVER MINING CO.,

June 9th, 1866.

Mr. JESUS M. GURROLA, *Gavilanes*:

SIR: As the term granted to the company I represent for the protection of the un-worked mines of their property is to expire in a few days, on account of notorious and well-known circumstances, and as I do not see any hope yet of perfecting things, I have thought necessary to ask for an extension of six months, for which I herewith inclose the necessary petition, and request you to take the trouble to attend to it in due form and to return it to me as soon as it is convenient, sending me at the same time an account of the expenses which may occur, so as to pay them at once.

Excuse the liberty I take in troubling so much an unknown person, but be sure of the friendship of your most affectionate and sincere servant,

J. A. DE LAGNEL,
Superintendent La Abra S. M. Co.

Financial statement of affairs of the La Abra Silver Mining Co., as per the books at the hacienda.

| 1866. | Dr. | Cr. |
|--|-----|----------|
| 31 May. By cash paid on account drafts on company..... | | \$15,300 |
| " " Gen'l Bartholow's check on B'k of Cal..... | | 75 |
| " " premium on \$15,075, at 2 per cent..... | | 301 50 |
| " " ditto " 300, " $\frac{1}{2}$ per cent..... | | 2 25 |
| " gold value of currency \$310, rec'd in N. York..... | | 227 94 |
| " sales of m'd'se for month of May..... | | 2,900 96 |
| " cash from Durango S. M. Co. on ac..... | | 109 89 |
| " cash received as a loan from D. Sullivan..... | | 231 00 |

CONTRA.

| | | |
|---|------------|-------------|
| " To cash paid for m'd'se purchased by G'l Bartholow prior to this date, including amount overdrawn from Eche- guran, Quintana & Co..... | \$9,586 18 | |
| " am't paid employes and foreign work- men, and for materials on ac., due 1st May | 3,511 50 | |
| | | \$13,097 68 |
| 34 To amount paid for m'd'se and provis- ions purchased by myself, including freights and charges as rendered to date..... | \$1,796 65 | |
| To amount memoria La Luz mine..... | 1,506 46 | |
| " amount memoria El Christo..... | 1,073 68 | |
| " amount memoria hacienda..... | 535 32 | |
| " amount for house expenses..... | 133 58 | |
| " am't personal expenses from N. Y ... | 360 69 | |
| | | 5,406 38 |
| Balance on hand..... | | 644 48 |
| | | 19,148 54 |
| | | 19,148 54 |

ASSETS.

| | | |
|--|------------|------------|
| May 31. Ore from La Luz during May, tons..... | | 31½ |
| Ore from El Christo " " tons..... | | 46½ |
| Remaining at La Luz, tons..... | | 80 |
| Remaining at El Christo, tons..... | | 50 |
| Average cost per ton, delivered..... | | \$17 00 |
| " " " not yet delivered..... | | \$13 50 |
| " 31 Outstanding accounts of Gen'l T. J. Bartholow, due Angel Castillo del Vallé, for sundries, at 4 months, due July 19, '66..... | \$2,080 48 | |
| " " Echenique, Peña & Co. m'd'se, due 13 June, '66. | 1,834 80 | |
| " " Careaga & Co " " 12 June, 1866. | 665 42 | |
| " " Echegurau, Quintana & Co. " 10 Oct., 1866. | 1,663 07 | |
| " " Juan J. Caeres, " 15 Sept'r, 1866. | 1,000 00 | |
| " " Angel Castillo, " 26 Aug't, 1866. | 2,217 19 | |
| | | \$9,460 96 |

Financial statement of affairs of the La Abra Silver Mining Co., etc.—Continued.

| | | |
|--|------------|-------------|
| May 31. Workmen unpaid at date and sundry contracts pending | \$1,572 00 | |
| Bal. in favor of I. V. Hardy, G. F. Griffith & T. J. Bartholow, as per ac..... | 1,475 91 | |
| Balance due Guadalupe S. M. Co..... | 895 58 | |
| | | \$3,943 49 |
| Balance of G'l B.'s debts remaining unpaid..... | | \$13,404 45 |
| Bills on time purchased by J. A. de Lagnel: | | |
| Echenique, Peña & Co., m'd'se due Sept'r 12, '66. | 1,034 67 | |
| José V. de Laseaga, quicksilver, Sept'r 16, '66.... | 1,328 93 | |
| Exchequran Quintana & Co., Jan'y 12, '67..... | 986 21 | |
| Due, accrued to workmen during the month, balance unpaid..... | 954 00 | |
| Corn to be paid for on delivery, two lots..... | 870 00 | |
| | | 5,183 81 |
| Sum total of debts of the La Abra Co., 31 May, 1866..... | | \$18,578 26 |

Respectfully submitted.

J. A. DE LAGNEL,
*Sup't La Abra S. M. Co.*D. J. GARTH, Esq.,
Treasurer, La Abra S. M. Co.,
No. 18 New street, New York.
(Duplicated.)HACIENDA DE LA ABRA S. M. CO.,
10 Junio, 1866.

Sor. MUI MIO: Esta tiene por objeto acusar el recibo de treinta cargas, una fanega con nueve almudes de mais, por el arriero Marcelino Flores, á cuenta de nuestra contrata celebrada entre V. y el Sor. Gral. Bartholow.

35 No he pagado el arriero, como me requiere porque lo tengo entendido del Sor. Bartholow que este mais hasta compeltar ciento cincuenta fanegas, asi como la polvora, fue tratado con plaso de cuatro meses.

Sirvase informarme si estoi bien endendido del asunto ó no, y cuanto mas mais, tiene listo para mandarme, y cuando lo puedo esperar.

Sin mas por ahora. Soy de Vnd. como Spre., S. S.,

J. A. DE LAGNEL,
Sup't L. A. S. M. Co.

[Translation.]

HACIENDA OF LA ABRA S. M. CO., June 10, 1866.

DEAR SIR: I write this to acknowledge the receipt of thirty cargas, one bushel (fanego), and nine almudes (a 24th part of a bushel) of corn, brought by the muleteer Marcelino Flores, on account of the contract between you and said Bartholow.

I have not paid the muleteer, as you asked me, because I understand from Mr. Bartholow that this corn and enough to complete one hundred and fifty bushels, as also the gunpowder, was contracted on four months' time.

Be pleased to inform me whether I am well posted in the matter or not, and how much more corn you have ready to send me, and when I can expect it.

I am ever your sincere serv't,

J. A. DE LAGNEL,
*Sup't La Abra S. M. Co.*HACIENDA DE LA ABRA,
*Tayoltita, Junio 25, 1866.*Señor D. JUAN ANTO. DIAZ,
Santiago Papasquero :

MUI SEÑOR MIO: Al salir para el puerto hace catorce dias, no habiendo llegada ni una parte de la carga de Vd. y temeroso de la falta de ella, por no tener por V. parte de V. compromiso cierto de tal entrega, y por otra parte estando la temporada mui avanzada, me aseguré del mais que necesitara por otro lado de modo que hoi al volver y encontrar el de V. en casa, me encuentro algo corto de recursos para hacerle á V. el pago debido.

Siento en lo infinito tal trastorno de mis calculos pero ha sucedido por razon de varios circunstancias sobre los cuales no ha estado en mi mano evitar.

Propongo recibir el maiz que hoi esta en el canino asi como este que ya tengo recibido y su importe total pagaré con n. h. de noventa dias, pagadera en la Ciudad de Durango.

Espero que este propuesto le encuentra en aceptacion de Vd. scendo lo mejor que puedo hacer. Sin mas asunto por ahora.

Soi de V. S. S. S.

J. A. DE LAGNEL,
Supt La Abra S. M. Co.

[Translation.]

HACIENDA OF LA ABRA,
Tayollita, June 25th, 1866.

Mr. JUAN ANTONIO DIAZ,
Santiago Papasquero:

DEAR SIR: On leaving for the port fourteen days ago without having received any part of your cargo, and being afraid of not getting it, as I have not made a special engagement with you for such a delivery, and as the season is, on the other hand, very far advanced, I secured, at some other place, the corn that I needed, so that finding yours on my return I find myself a little short of funds to make you the required payment.

I regret exceedingly the upsetting of my calculations owing to several circumstances over which I have had no control.

I propose to you to receive the corn that is now on the way, as also that already delivered, and to pay for it with a draft at 90 days' sight, payable at the city of Durango.

Hoping that this proposal should meet with your approval, it being the best that I can make, I am your sincere servant.

J. A. DE LAGNEL,
Supt La Abra S. M. Co.

36

EDWARD H. PARKER, *San Francisco:*

MAZATLAN, MEXICO, 16 June, 1866.

DEAR SIR: I inclose herewith a check on Bank of California for two hundred and ninety dollars, and request that you will acknowledge its receipt by the return steamer.

This closes the outstanding account.

Yours, respectfully,

J. A. DE LAGNEL,
Supt La Abra S. M. Co.

MAZATLAN, MEXICO, 16 June, 1866.

W. C. RALLSTON,
Cashier Bank of California, San Francisco:

SIR: Enclosed herewith I send duplicate drafts on D. J. Garth, of New York, for fifteen thousand dollars, payable at sight in gold coin.

Against this I have drawn on the Bank of California for the following amounts, viz:

| | |
|---|-------------|
| In favor of Echenique, Peña & Co | \$12,951.24 |
| In favor of Sanjurjo, Argeres & Pajol | 1,318.56 |
| In favor of Brodie & Co | 65.20 |
| In favor of Edward H. Parker | 290.00 |
| In favor of Weaver, Wooster & Co | 375.00 |

\$15,000.00

You will credit me with the current rate of premium, whatever that may be, and advise me of your action by return steamer.

Should you deem it requisite communicate with Mr. Garth by telegraph, as requested in your letter of May.

I feel some surprise that I did not hear from you by this steamer.

You will perceive an erasion both in this letter and on the draft. I made it to correct an error.

Very respectfully,

A. DE LAGNEL,
Supt La Abra S. M. Co.

MAZATLAN, MEXICO, 16 June, 1866.

Messrs. BRODIE & Co., *San Francisco* :

GENTLEMEN: Enclosed please find check on the Bank of California for sixty-five dollars and twenty cts., that being the balance due on your account.

You will oblige me by acknowledging the receipt of this money by the return steamer.

Respectfully,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

37

MAZATLAN, MEXICO, 16th June, 1866.

Messrs. WEAVER, WOOSTER & Co.,
San Francisco :

GENTLEMEN: Enclosed please find my check on Bank of California for three hundred and seventy-five dollars, being amount of your bill received by last steamer.

Please acknowledge the receipt of this money at your earliest convenience.

Respectfully,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

HACIENDA LA ABRA, *Tayoltita*, 28 June 1866.

Señor D. JUAN A. DIAZ,
Santiago Papazquero :

MUY SEÑOR MIO: Hace diez y siete dias al salirme de aqui para el puerto
del mais contratada lo cual no llegaba
acordandome de relativo á la entrega de
veinticinco ó treinta cargas asegurarme de este artículo
por otro parte, para no quedar escaso, y por
parte. compre por otro

A mi vuelta encontra en casa una parte del mais de Vd. y me informe el arriero que mas venia en camino.

Porsupuesto aquello ya racibido le sera payado pero el resto para llegar, habiendo, ya cumplido el plazo especificado, no me obligad recibir.

Sin embargo como algunas circunstancias que no este en mi evitar, hace, que me es imposible pagar al contato aun por lo recibido; propongo á Vd. recibir lo demas todo, y pagarle con nuestra hetra de noventa dias pagadera in Durango.

Le he facilitado al enviado D. Candelario Diaz, á su pedido, unos cincuenta y dos pesos, los que he sentado á la cuenta de V. y me hace el favor de decirme si podré cargarle á V. una cuenticita de casa de diez pesos que me debe el mencionado Diaz porsupuesto á cuenta del mais.

Soi de V. S. S. S.,

J. A. DE LAGNEL.

[Translation.]

HACIENDA OF LA ABRA, *Tayoltita*, 28th June, 1866.

Mr. JUAN A. DIAZ,
Santiago Papasquero :

SIR: On my departure for the port seventeen days ago, of
the corn contracted for, which did not arrive, and remembering
that relative to the delivery of
twenty-five or thirty cargas, to assure myself of getting this
article some place else, so as not to be short, and by bought at
another place.

On my return home I found part of your corn, and the muleteer informed me that some more was on the way.

The corn already received will, of course, be paid for, but the balance that is to come, as the time fixed has already elapsed, I am not obliged to receive.

As some circumstances, however, which I can not avoid make it impossible for me to pay cash for that already received, I propose to you to receive the whole balance, and pay for it with our draft, payable at Durango ninety days after sight.

I have given the messenger, Candelario Diaz, fifty-two dollars, he asked me for, which I have charged to your account. Do me the favor to tell me if I can charge to you a small bill of ten dollars which the said Diaz owes me, of course on act of the corn.

I am yours,

J. A. DE LAGNEL.

TAYOLTITA, 27 de June, 1866.

DEAR SIR: Please accept my thanks for the readiness to assist me, manifested by yourself. Mr. Bryant had, however, already commenced making the rivets and many more were required than you had to spare.

I am again compelled to ask your assistance in the matter of shingling nails, ours are exhausted, and my roof only partly on. You will therefore oblige me greatly by sending by the bearer of this about seventy-five pounds (75 lbs.) of shingling nails, or if you have not got them, send six-penny nails.

38 I would also request that you let me have two or three brooms (corn) for house use. Please send bill with the goods. You will oblige still further by saying to Mr. Carr that when he is able to work I should like to see him, for we need the services of a competent mason now.

The Mexican mason from San Dinias left, a day or two since, because I was unwilling to continue him at \$2.50. His work has all fallen down, and I want him to re-store it, the other masons being stone workers only.

Please endeavor to get him back, if you can; send him over to work at old rates, if we can do no better.

Yours, truly,

J. A. DE LAGNEL.

J. G. RICE, Esq., *Sup't, etc.*

HACIENDA DE LA ABRA S. M. Co.,
Tayoltita, 6 July, 1866.

Messrs. ECHENIQUE, PEÑA & Co.:

GENTLEMEN: As I can not visit Mazatlan at this time, I have to ask at your hands the favor of settling one or two bills, which are due.

You will oblige me by placing with the house of Messrs. Echeguran, Quintana & Co. to the credit of Sr. D. Angel Castillo del Valle, of Durango, the sum of two thousand and forty-eight dollars and thirty-one cents (\$2,048.31), which amount will be due by the time this reaches you.

Please take a receipt for this amount in my name, and forward it to me, with the mail matter coming up. I also have to ask that you purchase a draft on San Francisco, Cal., for fifteen hundred dollars in coin, in favor of John G. Edgar, and make it payable to himself or order.

This draft you will please inclose with the accompanying letter, sent herewith, and directed to John G. Edgar, San Francisco, California, taking the precaution to send it by Wells & Fargo's Express.

Such mail matter as there may be for me or the men employed here, a list of whose names I send herewith, you will please deliver to Mr. George Grassie, who will hand you this.

You will oblige me by sending a list of letters sent up, with the charges or expense, if any, opposite to each name, that I may charge or collect it here.

With respect, your ob'd't serv't,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA S. M. Co.,
Tayoltita, 6 July, 1866.

SIR: At the request of your brother, who is now employed here, I send you a draft (payable in coin, in San Francisco) for fifteen hundred dollars. I trust it will reach you speedily and safely, of which I have no doubt, having sent it by Wells & Fargo's Express.

Very respectfully,

J. A. DE LAGNEL, *Sup't.*

Mr. JOHN G. EDGAR,
San Francisco, California.

List of names of persons at the La Abra Co.'s works for whom letters from Europe or the United States may arrive.

Alfred Bryant.

J. Edgar.

A. B. Elder.

Dan. Sullivan.

James Collins.

J. W. Green.

J. Keeghan.

Richard Honith.

Charles E. Norton.

Francisco Dominguez.

(And mail matter for myself, private or otherwise.)

N. B.—Please remember to make a list of names of the persons for whom *letters* are sent up by the couriers, and charge opposite each the number of letters sent and account of postage or express charges paid on each account, in order that I may collect the same here.

39 I will further request you to make a close and water-tight package of the letters, and seal the same.
Very respectf'y, etc.,

J. A. DE LAGNEL, *Sup't.*

Messrs. ECHENIQUE, PEÑA & Co.

HACIENDA DE LA ABRA S. M. Co.,
Tayoltita, 6 July, 1866.

GENTLEMEN: By this courier I write to Messrs. Echenique, Peña & Co., requesting them to deposit with you, in favor of S'r D. Angel Castillo, of Durango, the sum of two thousand and forty-eight dollars and thirty-one cents (\$2,048.31), that being the balance on our accounts due to-day.

You will oblige me by advising me of the receipt of the sum specified.

The three letters entrusted to my care by S'r D. Pedro Echeguren were duly despatched to the postmaster at Gavilanes by a courier, there being no other means of forwarding them.

I acted thus, fearing that the letters might be of importance, and therefore would not risk delay.

With best wishes for all, I remain yours, respectfully,

J. A. DE LAGNEL, *Supdt.*

Messrs. ECHEGUREN, QUINTANA & Co.,
Mazatlan, Mexico.

HACIENDA DE LA ABRA S. M. Co.,
Tayoltita, 6 July, 1866.

D. J. GARTH, Esq're,
Treasurer La Abra S. M. Co.:

DEAR SIR: For some days I have been feeling so ill as to be almost wholly incapacitated for the discharge of any duty, and am now momentarily awaiting a chill, which gives notice of its near approach.

Perhaps it may afford you a better insight into my actual condition when I tell you that I have had them now for five or six days consecutively, with burning fever and great consequent exhaustion.

Knowing, however, your deep interest and anxiety respecting the completion and working of the mill, I nerve myself to give you some little light respecting the advancement of the work.

To Mr. Adams I would also write, but my feelings forbid the attempt.

Since my last the roof of the mill has been nearly completed, and will be entirely in a few days.

During my absence at Mazatlan the first heavy rain fell, and owing to the want of a good foundation in a part of our mill wall, the heavy pressure of water from the hill-side done it some damage, and which, owing to the great scarcity of masons, could not be repaired at once, but is now rapidly being put in a better condition than at first.

There now remains to complete the reverberating ovens, refining furnace, and retort furnace, and I am about to commence to grade off a place near the mill for them, which will be a comparatively short job. The grading for the site of the boiler is complete, and the necessary walls will be commenced next week. The iron work is progressing slowly, having but one smith and helper, but I trust that by another month the pans will be up and in their place.

The ditch, as I said in my last, I look upon as an independent work, and which should have been finished before the rainy season.

I had quite a long stretch of ditch walled up, and the arch thrown over a part of it, to prevent its being filled in by the wash of a small creek which crosses its route at right angles. The rain came upon us, however, before the masonry got well hardened, and the waters of the creek carried a part of the arch away, and I have concluded to spend no more upon this work at a risk, but await the dry season. I can, by clearing out the ditch, bring water enough to the mill to run it when we may be ready so to do, and this without much expense.

In consequence of the heavy outstanding indebtedness, and which I must meet to

re-establish the credit of the co., I decided to lessen the expenditures, and reduced the working force at the mines nearly one-half, being obliged also to suspend the working of the Cristo on account of foul air in the lower level.

40 The payments made formerly to workmen and others in cash are now made in cash and goods, one part of the former, and two of the later.

I inclose here a statement of our cash account, to which and to my explanation I beg your attention. I am now in bed with a severe chill, and am writing this by an amanuensis.

Hoping to give you a lengthy and more thorough report by next mail, yours, respectfully,

J. A. DE LAGNEL, *Supdt.*

HACIENDA DE LA ABRA,
July 6th, 1866.

JOS. G. RICE, Esq're,
Supt. Durango S. M. Co., San Dimas:

SIR: By the bearer I send you a package of mail matter, which you will please instruct your carrier to deliver.

I will be pleased to accept your proposal relative to my bearing one-half the expense of the express to Mazatlan, and you will please instruct him also to call at the house of Echenique, Peña & Co., upon returning from the port, to receive such matter as they may have in care for me, and you will forward such to me by express upon its arrival.

I would thank you to send over the mason Apolonio as soon as you can conveniently. Excuse brevity, as I am sick and in bed with severe chills.

Yours, respectfully,

J. A. DE LAGNEL, *Supdt.*

HACIENDA DE LA ABRA,
Tayoltita, Julio 13 de 1866.

Señor D. JESUS MA. GARROLA,
Gavilanes:

ESTIMADO SEÑOR MIO: Habiendoseme V. dispensado, con tanto bondad, mi molestia del otro día, vuelvo á ocuparle con un asunto del mismo clase, siendo un pedido para la proroga de la mina del Promontorio, propiedad de las mismas personas que represento aquí, el cual pedido debía haber sido incluso con el de las otras de la compañía, y no fué por mi descuido, y aprovecho de la presente oportunidad para enviarselelo, para que se sirva atender á ello así como al otro. Contando V. siempre en que s. c. cubridora de los gatos que incurra será paganda a la vista.

Accepto V. saludes y expresiones de mi alta consideracion y respecto.

Soy de Vd. Señor, su afeco y S. S. S., etc.

J. A. DE LAGNEL, *Supdt.*

26

[Translation.]

HACIENDA OF LA ABRA,
Tayoltita, July 13, 1866.

Señor Don JESUS M. GURROLA, *Gavilanes:*

MY DEAR SIR: As you have been so good as to excuse the trouble I gave you the other day, I come to you again with a matter of the same kind, it being the petition for the extension of the time for working the mine Promontory, belonging to the same persons whom I here represent, which petition ought to have been sent, together with the others of the company, but was not, thanks to my oversight. I avail myself of the present occasion to send it to you in order that you be pleased to attend to it at the same time as the other, being sure that your account of the expenses in this matter will be paid at sight.

Accept the assurances of my high consideration and respect.

I am, sir, your most affectionate and sincere servant,

J. A. DE LAGNEL,
Supt La Abra S. M. Co.

40

Mr. J. G. RICE:

TAYOLTITA, 25th July, 1866.

DEAR SIR: The mail-matter forwarded by the Mozo Paz was received in good order, and the amount (\$20) of twenty dollars duly credited to the Durango S. M. Co.

I am obliged to you for your efforts to procure me masons, but believe that at present we are doing pretty well, though another stone mason would perhaps not be amiss,

provided he be not too high-priced. The brick-work requiring immediate attention is all done, and Arriola can do the rest. I am very glad you are succeeding so well, and trust that each day may add to your good fortune. As to the communication, shown to me by Mr. Grassie, and herewith returned, I do not think there is any necessity for action, and therefore do not sign it or add anything to it.

Desiring to ascertain truly the grade of the ditch, I have to ask the loan of your level, about which we have already spoken. I would send for it, but presume you would prefer to select your own man, some one you know to be careful.

In conclusion, I would desire to know if it will be convenient for you to settle up your account, as I shall very shortly need the money here.

Yours, truly,

J. A. DE LAGNEL.

41

HACIENDA DE LA ABRA, Julio 26, '66.

Señor D. ANTONIO ARAIZA,

Guarisme:

MUY SEÑOR MIO: En su carta del 5 de May, del presente año, y dirigida al Sor. Cervantes, añadio Vd. una notita relativo á la historia de la mina Promontorio que oreció V. enviarle al ex-almor. de esta Hacienda, al Sor. Gl. Bartholow, como el le habia explicado.

Como esta carta allegó á este en los días de la salida del referido Señor para los E. U., estaba yo encargado por el así como por los propietarios de recibir la referida relación de Vd. para remitir selos, por lo tanto tomo la libertad de molestarle suplicando se sirva tener la bondad de mandarme la historia especificada para los usos refreidos ademas como tengo interes en saber yo, las tradiciones de una mina tan mencionada.

Sin mas por ahora, soy de Vd. afecs. y S. S., etc.,

J. A. DE LAGNEL.

[Translation.]

HACIENDA OF LA ABRA, July 26, 1866.

Señor D. ANTONIO ARAIZA, *Guarisme:*

SIR: Your letter of the 5th of May, of the present year, addressed to Mr. Cervantes, contained a postscriptum in regard to the history of the Promontory mine, which you promised to send to Gen. Bartholow, the ex-superintendent of this negotiation, who had asked you for it.

As said letter was received here when the above gentleman was preparing to leave for the U. S., both he and the owners have requested me to receive your history and send it to them. I take, therefore, the liberty to trouble you with the request that you be kind enough to forward it to me for the above purpose. I am besides interested in hearing the traditions of such a famous mine.

I am, your most affectionate and sincere servant,

J. A. DE LAGNEL.

TAYOLTITA, 27 July, 1866.

DEAR SIR: Please accept my thanks for the level, which arrived safely a few minutes since, together with the notes of yourself, the prefect, and Col. Valdespino.

You must pardon me for asking you for the balance in your hands, but I need it very much, having exhausted my ready money.

As to the Rosario & Carmen Co.'s bill, you will please not include that now, as there is some acct's pending, and, by arrangement between us, I have to see Dr. Carmen himself first.

Whatever the balance may be, if against us, of course I will promptly pay.

I thank you for the hints and information you give me respecting the forced loan. It strikes me as rather strange that one-half of the tax should lie between you and myself.

I am powerless to comply with the money part, not having the wherewithall.

Col. Norton joins me in kind regards to you.

Yours, truly,

J. A. DE LAGNEL.

J. G. RICE, Esq'r,

Supt. Durango S. M. Co.

HACIENDA DE LA ABRA, Julio 28de, 1866.

Sor. Gefe Político del Mineral de San Dimas :

Su oficio de ayer llevo á mis manos en debido tiempo, y impuesto de su contenido, relativo á su prestamo ó contribucion, que exige de los vecinos del distrito, para el costeo de la fuerza del Sor. Coronel Valdespiros, contesto en el acto.

De los renglones que V. me pide, y de que tengo, le mando una parte y espero que le sera utiles y aceptables. En respect al dinero efectivo, siento tener que decirle que me es imposible remitir aun poco, porque no tengo aqui, ni aun lo necessario para cubrir mis muchos y constantes gastos.

Le suplico tomar en consideracion, que esta Hacienda ha traída ya, miles sobre miles de pesos, al pais, de la cual suma casi toda ha sido gastado en este mineral mismo, entre la gente menesterosa, y una suma considerable en derechos pagados á la tesoreria del partido, bajo cuya bandera milita el Sor. Col. Valdespiros, y de toda este

42 suma no hemos recibido hasta hoi como es notorio y publico, ni un solo peso.

Le remito á V. dos piezas de mahon azul, y dos piezas de manta conc el el valor de setenta cinco pesos con sesenta y cinco centaros, de la cual sirvase remitirme el correspondiente recibo, para cubrirme con la compania que tengo el honor de representar.

Añado en conclusion de esta, que me es muy estraña que, siendo la suma total de le contribucion perdida \$1,200 la cuota de las dos Companias Americanas llega á la mitad de ella. Cuando hai en el distrito varios vecinos que tienen proporciones considerables.

Soi de V. Señor mio. Su ato. y S. S. S., Q. S. M. B.,

J. A. DE LAGNEL.

[Translation.]

HACIENDA OF LA ABRA, July 28, 1866.

To the Gefe Político of the San Dimas mines :

In due time reached me your communication of yesterday in regard to a loan or tax which you exact from the residents of the district for the support of the forces of Colonel Valdespino, and having noticed the contents thereof I answer it forthwith.

I send you part of the articles I have and which you ask me for, hoping that they be useful and acceptable to you.

As regards the cash I am sorry to inform you that it is impossible for me to send you even a little, because I have not here the necessary amount to defray my many and constant expenses.

I request you to consider that this hacienda has brought the country thousands and thousands of dollars, most of which have been spent among the needy people of this district, and a considerable part in duties paid into the treasury of the district, under whose flag Col. Valdespino is serving. As it is public and well known, not a single dollar have we received of this sum up to date. I send you two pieces of blue mahon and two pieces of bleached cotton, valued at sixty-five dollars and seventy-five cents, of which amount be pleased to send me the corresponding receipt, in order that it may serve me as a voucher to the company I have the honor to represent.

In conclusion permit me to add that it is very strange to me that the total amount of the tax being \$1,200 the share allotted to the two American companies should amount to half that sum, when there are in the district several residents who have considerable property.

I am, sir, your sincere servant,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA, Julio 28 de 1866.

Sor. Coronel D. J. VALDESPINO,
San Dimas :

SEÑOR MIO: Impuesto por su grata de ayer, de la situacion triste en que se halle, por el carecimiento de recursos, y de que piensa V. retirar del Distrito pudiendo hacerse de recursos para tal movimiento.

Entendido de la mucho necesidad que sufra y considerando, como V. mismo me dice, los muchos males que sufriríamos si con su fuerza, viniera par aca, hayo cuanto puedo para allanar la situacion y mando á la gefatura del distrito unos dos piezas mahon y dos de manto, sienda estos los renglones que tengo de los articulos mencionados, de mas necesidad.

Me es imposible contribuir en dinero hacia allanar el abastecimiento de lo que hoi le hace falta.

Sirvase V. considerar que nuestra Hacienda de beneficio no esta completa y por lo tanto inproductivo, sin contar con los muchos gastos que todavia tenemos que hacer,

y esto con el tiempo de aguas encima el dinero escase y lejos y la situacion normal politico, que no deja de causarnos graves perjuicios. No estoy por lo tanto, en condicion para prestarme como V. desea a la pedida del Sor. Gefo Politico, pero le remito lo que tengo, y desco que sean aceptados, como indice de mi buena voluntad.

Supongo, que, por supuesto habiendo contribuido lo posible, puedo seguir en mis trabajos sin temer la interrupcion que causa la venida de una tropa armada.

Soi de V. Señor, mio su artento, y S. S. S., y S. S. M. B.,

J. A. DE LAGNEL.

[Translation.]

HACIENDA OF LA ABRA, *July 28th, 1866.*

Col. D. J. VALDESPINO, *San Dimas:*

SIR: Your favor of yesterday informs me of the sad situation in which you find yourself for the lack of resources and of your intention to procure them preparatory to leaving the district.

43 Understanding the great need that you are in and considering, as you yourself state, the many evils that we would suffer if you should bring your forces here, I do all I can to overcome the difficulties, and I have sent to the political chief of the district two pieces of mohair and two of bleached cotton, those being the only things among the necessary things mentioned which I have.

It is impossible for me to contribute with money in order to provide you with what you need to-day.

Be pleased to consider that our reducing works are not complete, and therefore unproductive, without reckoning the many expenses that we yet have to make, the proximity of the rainy season, the scarcity of money, and the abnormal political situation, which can not but cause us serious damages.

I am not, therefore, in a condition to accede, as you desire, to the wishes of the political chief, but have sent him what I have, hoping that they be accepted as a token of my good will.

I suppose that having contributed with what I can I may, as a matter of course, resume my work without fearing the interruption that would be caused by the arrival of armed forces.

I am, sir, your attentive and sincere serv't.

J. A. DE LAGNEL.

HACIENDA DE LA ABRA,
Tayoltita, 31 July, 1866.

Mr. J. G. RICE,

Supt. Durango S. Mines:

DEAR SIR: I hasten to acknowledge the receipt of your note of the 29th inst., and also of one hundred dollars, in silver, paid on account.

I enclose herewith a statement of your account, as appears by our books, differing from yours a few dollars, in your favor, however.

If there should be anything omitted by me please correct such error and inform me of it.

I send you two bottles of mustard as requested, price \$1 each; you will find them included in the bill herewith.

As to the forced, voluntary (?) loan, it was an impossibility to meet the demand, and I so stated in my note to the prefect.

You can not have failed to notice that the exact half of the whole levy was laid upon you and myself, a fact I brought to the attention of the parties interested.

I feel obliged to you for your frequent notes and kind offices generally, and would be pleased to see more of you here or at home, but circumstances forbid.

Please keep me advised of events passing; I regret to announce the death, yesterday, of Mr. Dominguez.

Yours, truly,

J. A. DE LAGNEL.

The Durango Silver Mines to La Abra Silver Mining Co., Dr.

| | | |
|----------|--|-----------|
| 1866. | | |
| May 1. | For balance as per Gen'l Bartholow's books | \$110. 09 |
| June 16. | " cash from J. A. De Lagnel | 600. 00 |
| July 31. | " 2 bottles mustard | 2. 00 |
| | | <hr/> |
| | | 712. 09 |

The Durango Silver Mines to La Abra Silver Mining Co., Tr.—Continued.

CONTRA.

| | | | |
|----------|--|-------|----------------|
| 1866. | | | |
| May 6. | By cash from Mr. Rice | ..... | \$61.89 |
| May 15. | By cash (Mr. Grassie) | ..... | 48 |
| " " | 2 trowels | ..... | 3.50 |
| 22. | 1 arroba wicking | ..... | 25.00 |
| June 20. | 25 cargas of corn, at \$15 | ..... | 375.00 |
| 25. | sundries (nails and brooms) | ..... | 6.50 |
| July 6. | payment to Correo | ..... | 1.00 |
| 26. | share of expense of Correo to Mazatlán | ..... | 20.00 |
| 30. | cash | ..... | 100.00 |
| | | | <hr/> \$640.89 |
| | Balance due La Abra S. M. Co | ..... | \$71.20 |

44

MAZATLAN, MEXICO,
16th August, 1866.

D. J. GARTH, Esq're,
La Abra S. M. Co. :

DEAR SIR: Not being here last month, I received your mail matter by the hands of a courier I sent down. Therefore could not easily acknowledge the receipt of the letters he brought four weeks since of the following dates, viz, 11th May, '66; 19 May, '66; 31 May, '66; 11 June, '66, and 25 June, '66.

By this steamer I received your letter of the 10 July containing a note of a friendly character, which I notice elsewhere.

As the letters of former steamer call for no especial notice or attention here, I shall confine myself to your last, and also endeavor to give you precise information respecting the condition of the work.

I here thank you for the expressions of confidence and satisfaction contained in your letter in reply to mine. I can only say that however open to criticism my administration may be, my only object has been, and will be, to carry out as speedily as possible your wishes and instructions.

The wheel, battery, and mill-house are completed; the and roof being finished, the machinery in its place and arranged, save the boiler for heating the patio; this was improperly sent from San Francisco in small pieces, when much of this work should have been done in the foundry there. The object of my being here is to secure a competent person to rivet together the boiler, and though it might possibly be done successfully with the labor we have, yet I have deemed it preferable to leave nothing to chance, and I think I have the man I want.

On Boardner's defection I engaged the services of Seth Rice, former machinist and was congratulating myself and the company with the happy exchange, when unfortunately at the end of the month he determined to leave, much to my regret. During his stay, however, the work went on and I consider it fortunate that things took the course they did, bringing on the work in hand of which former, Boardner, was at least wanting.

The one drawback is in the ditch; though I fear that, if it could be rendered available under Mr. Castillo's control, no insuperable difficulty exists now.

The old stone-work of the ditch I have carefully repaired, and floored where it was wanting, and will, I trust, soon have it in a condition to put the water on the wheel.

Of this last I had grave doubts before the rainy season. Time demonstrated that they were not well-founded. I feared the wheel was too low and would be seriously interfered with by the back-water, but up to the time of my leaving the greatest height it had reached (the river) did not raise the water sufficiently to cause any apprehension.

Therefore, I think that while detention may happen from floods or excessive high stage of water, that it will but rarely happen, and that the progress of the work will not be seriously interfered with.

The hacienda is gradually assuming a neat and orderly appearance. The store and rooms in new building are furnished and occupied, the end of the two ranges of buildings being connected by cross-wall of stone, strong and safe.

The foreign (white) force I have reduced to the minimum, thinking it to be a most futile source of expense, with none of the corresponding advantage.

The ore on hand has been overstated, unintentionally, a fact which I found out on making an examination of the books.

I have had the large pile of 2nd class ore, about which much doubt had arisen, cleaned, and the amount of clean from the rock, as declared to be the expert Limpador, is very small.

The ore cleaned from it, however, is very good, and the other pile of 1st-class

metal is not only better in quality, but in as far as has yet been made manifest but little waste metal.

Besides these there is a third pile of almost equal amount to either of the others from the El Cristo.

I remark what you ask respecting inventory and statement. It has been made, or partially so, and will be forwarded with full and explicit statement by next steamer.

It is but just to myself to say that your letters by last steamer did not reach me till near the close of the month, and as sickness and death had done their work in our little circle, it was out of my power to comply with your wishes, my time being entirely taxed to work in the store.

Thanking you for your encouraging words, I would say that the first experience was the most bitter. I am more comfortable and contented now, and am provided with assistance, which I always find ready and willing.

The death referred to above was that of my clerk, a young Mexican, speaking English, a most worthy, honest, and faithful gentleman.

I trust to replace him with a young gentleman of good standing and character, at \$40 per month. Therefore you need not send any one from the States, as the 45 book-keeper and clerk are enough, and salaries are loophole.

I am as anxious as yourself to meet with results, from different motives, but I trust no less operative. I am in hopes of gaining ground, instead of falling away, despite the many drawbacks and trials I have had to stand.

Mr. Cullins, of whom you speak, former head miner, with Dr. Hardy, left by July steamer. I presume you have seen them by this time.

Though regretting his departure at the time, I do not feel his loss, having an equally competent, reliable, and steady man to fill his place.

Up to August I had been working in La Luz and El Cristo mines, the others being under prorogue till January next. The results from La Luz not corresponding with the outlay, I reduced the force there, working in one place where the metal justified, and also a cross-cut to strike the true vein, which has been left to the right. This took place under Cullins, and, conscious of the fact, he commenced the work I am now driving, but ceased upon the sale and transfer to you.

Since then it has been resumed, and the metal in the left-hand branch becoming scarce and less rich, I determined to drive across to cut the vein in the main level, being able to trace it. It is an old working, both above and below the level on which the work is now being done. The distance to go is only a matter of a few yards. As the Cristo was dangerous to work for a while, in consequence of the presence of carbonic acid gas in the mine, I ceased operations there temporarily (now resumed), and have also put gangs (small ones) into the Jalpa and Arsallas, said to be among the richest of the mines. Yesterday, in talking with old Mr. V. Larsaga, of this place, who is personally and practically acquainted with the mines, I asked his opinion respecting the best course to pursue, and was gratified at his approval of what I had done.

When I arrived in Tayoltita, the payments were made mostly in cash. After the first month I reduced it to one-half and the next to one-third cash, and rest in goods.

The supply of goods and necessities is ample for some time to come, but the bills are not all yet paid, and I am compelled to draw on you, despite the inconvenience I may cause you.

By this steamer I draw on you for (\$10,000) ten thousand dollars. On this I receive premium, of course; heretofore 2 per cent., and is worth now 3 per cent.

On the former drafts I received from Bank of California $\frac{1}{4}$ and per cent., respectively.

The certificate you ask for I inclose herewith. It was my first impulse to return them to you, but upon again reading your letter, I determined to obey orders. With this you will have perceived by the letter in which I inform you they were returned, but changing my mind, contradict the statement on the envelope.

As to the interest you hold in the Nuestra Sra. de Guadalupe Co. and the attendant assessments, I can only say that they still continue, four having been already paid, one by Gen'l B., one by yourself, and two by me, and a fifth now demanded, payable on 16th of this month, or before, or forfeiture and sale.

This law I do not think is sound, though recognized in (San Francisco) California, but Mexico has laws of her own, and there the same principle is maintained, yet the four months' notice is required, and the application and communication must be through the judge. So I gather from Rockwell's translation of the mining laws of this country.

Not feeling to pay out more to this comp'y without your authority, I have written satisfactory letters to the pres't and sec'y, telling them that arrangements would be made upon arrival of steamer or telegram for payment in San Francisco, and asking what steps are to be taken. I scarce know whether to attempt to advise or no, but you know the property as well or better than I.

No work is going on other than the development of the mining property, but I understand that immediately upon the end of the rainy season the hacienda contemplated

will be begun. The desire and intent is evidently to and beneficeiate at your new works, and impatience is exhibited by that co. to know when and for how much it will be done. I came down by way of Guarissamé and Ventana on the mountains, saw Mr. Arriza, and asked for the history of the Promontorio, so long promised by him and so long desired. He assured me I should have it upon my return; so, upon the strength of his word, I inform you that it will be forthcoming. As to the existence of the Guadalupe store in it is beyond my power of control; it would never, or for a long time, been established, had our hacienda continued to supply the wants of their miners; but a difference arising between the gentlemen respectively controlling the interests of their companies here, the call upon us ceased, and a store, as was then necessary and inevitable, was determined upon. Such, at least, is what I learn.

To control it now is out of my power, I fear, tho' means of convenience and interest after awhile may be formed to correct this. It is, however, a small affair, as compared with ours.

Please present my regards always to Mr. Hearn when you write, and accept for yourself my thanks and best wishes.

Yours, respectfully,

J. A. DE LAGNEL

46

MAZATLAN, MEXICO, 16th August, 1866.

DEAR SIR: I avail myself of the first opportunity offered to notice your letter of 3 June, inclosing notification of a further assessment of one dollar per share upon the stock of the Nuestra Señora de Guadalupe S. M. Co., held by the company that I have the honor to represent.

The paper was not delivered to me until after the 20th of July (I think), as in consequence of the high water and heavy rains prevailing at this season it became necessary to send our letters down by a courier. It was therefore impossible to reply by the return steamer of last month, as I would have wished.

The payment will be made in San Francisco, and to this end Mr. Garth, the treasurer of the La Abra S. M. Co., will be advised at once upon arrival of the steamer in San Francisco.

I leave the payment to him, in San Francisco, as you suggest, and thus advise you that no premature action may be taken in regard to the sale of the stock, as whatever of delay there has been has arisen from natural causes, out of my power of control. All previous dues or indebtedness have been fully paid by me, through the house of Echeguren & Co., of this place, of which fact I presume your superintendent has fully advised you.

With respects,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

— PFEIFFER,
Nra Sra de Guadalupe S. M. Co., San Francisco, Cal.

MAZATLAN, MEXICO, 16th August, 1866.

GENTLEMEN: I inclose herewith the landing certificate asked for in your letter of 31st ulto., and am happy that I am able to do so by this steamer.

The goods, you will recollect, were purchased before my arrival here, by Gen'l Bartholow, and I was not aware that anything had been neglected, else should have sooner attended to it.

I believe there is a small balance due to your house for some purchases on Gen'l B.'s account, but I am not familiar with the details. Please advise me at your earliest convenience, and believe me,

Yours, respectfully,

J. A. DE LAGNEL

Messrs. WEIL & Co.,
San Francisco, Cal.
(Across the face:) Not sent.

MAZATLAN, MEXICO, August 16, 1866.

SIR: I write you by this mail because Mr. Pfeiffer, in his letter covering notice of assessment, says, "Our pres'd't, Mr. Stoud, asks me to remark to you that he is expecting a letter from you in regard to the crushing of some of the ore of this company."

As remarked to you when in San Francisco, it would be of mutual advantage to crush your ores, provided we had not enough of our own to work to advantage, but

that in the then incomplete condition of the mill it was out of the question to commit myself by promise or engagement to work it in any given quantity or at a stated price.

To my regret the mill is not yet complete, tho' well advanced, and I trust shortly to be able to answer you as you desire, but at the present moment it is not in my power to do so.

I regret that you were so mistaken in your views as to the necessity for further assessments. It has surprised me no less than it has been cause of regret that the necessity for so constant and heavy assessments should exist.

Trusting that the arrangement with New York for payments direct will be satisfactory,

I remain, your ob'd't serv't,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

— STOUT,
Pres't N. S. de Guadalupe M. Co., San Francisco, Cal.

47

MAZATLAN, MEXICO, 16th August, 1866.

DEAR TAYLOR: Pardon me for troubling you with my affairs, but feeling sure you would do me the favor with willingness, I have not hesitated to ask it at your hands.

You will greatly oblige me by sending the following telegram to David J. Garth, No. 18 New street, New York:

"Fifth (5th) assessment one dollar per share, on Guadalupe stock, payable immediately. If desired please pay by transfer."

J. A. DE LAGNEL.

MAZATLAN, MEXICO, 16 August, 1866.

DEAR SIR: I avail myself of this opportunity to advise you of the receipt of your two letters, one by this, and the other by former steamer, informing me of the receipt of my draft and letters, of your action, and the amount of premium to my credit in your hands.

I herewith inclose a draft (first and second) for ten thousand dollars on D. J. Garth, of New York.

Please place to my further credit such amount of premium on said draft as prevailing rates of exchange allow, and advise me at your convenience.

Against the above-mentioned draft on New York I have drawn upon your bank for the like amount (ten thousand dollars), in favor of Messrs. Echenigue, Peña & Co., of this city.

I am, sir, very respectfully,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

WM. C. RALLSTON, Esq.,
Cashier Bank of California, San Francisco, Cal.

HACIENDA DE LA ABRA, de Agosto de 1866.

Sor. Juez 1º Mayor de la 1ª Instancia San Dimas:

Tengo el honor de acusar recibo de la cita que me envió V. citandome para el día de hoy á ese juzgado, por una demanda del Sr. D. J. Ma. Loaza y en contestacion digo, que me sera imposible hacer tal viaje por ahora, hallandome bastante enfermo de calenturas, que me ha tenido prostrado hace algunas dias.

Soy de Vd. aco. S. S.

J. A. DE LAGNEL.

[Translation.]

HACIENDA OF LA ABRA, August 25th, 1866.

To the judge of the 1st instance of San Dimas:

I have the honor to acknowledge the receipt of the summons that you issued for my appearance to-day at this court in the matter of a suit brought by Mr. J. M. Loaza. In answer allow me to say that it will be impossible for me to make that trip at present, on account of my being sick with the ague, which has kept me in bed for some days.

I am, sir, your affectionate and sincere servant,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA,
Tayoltita, Agosto 31, 1866.

Sr. D. JESUS M. CURROLA,
Hacienda del Pilar Gavilanes:

ESTIMADO SEÑOR MIO: Su grata del 24 del p. p. llegó á mis manos, adjunto con una proroga las minas de esta compañía y á la vez otra para Promontorio y Acepta Vd. Señor Mio las gracias para las molestias y atencion en el cumplimiento de mis repetidos encargos y espero que con la misma franqueza tratará conmigo en todo tiempo en que le puedo servir.

Espero luego la cuenta de gastos que estoy.

Sin mas por ahora, me quedaré á sus ordenes de Vd. su afmo. S. S., Q. B. S. M.

CARLOS E. NORTON,
por ausencia del admor.

48

[Translation.]

HACIENDA OF LA ABRA,
Tayoltita, August 31st, 1866.

Mr. JESUS M. CÚRROLA, Hacienda del Pilar, Gavilanes:

MY DEAR SIR: Your favor of the 24th ultimo reached me as also an extension the mines of this company and at the same time another for Promontory and

Accept, sir, my thanks for the troubles and attention you have had in the fulfillment of my repeated requests, and I hope that you will treat me with the same frankness any time that I may be useful to you.

I expect soon the ac't of expenses which I owe.

Without any more for the present, I remain your affectionate and sincere servant,

CARLOS E. NORTON,
In the absence of the Superintendent.

HACIENDA DE LA ABRA, Sept'r 2, 1866.

J. G. RICE, Esq're,
Hacda del Bathuaste, San Dimas:

DEAR SIR: Col. De Lagnel has just arrived, having been detained on the road from Mazatlan several days on ac't of swollen streams and other difficulties which this season causes.

He sends by a "proprio" a package of mail matter, and requests me to say that owing to the many expenses of the trip he expects you to bear your share of them, as he did with you last mail.

The col. is well and sends regards.

Yours, most respectfully,

CHAS. E. NORTON,
By order of the Supt.

Amount of indebtedness contracted by G'l Bartholow and remaining unpaid, 1866.

| To whom due. | On what account. | Amount. | Paid by me. |
|-----------------------------------|---------------------------------------|------------|-------------|
| Angel Castillo..... | Bills for powder, tallow, flour, etc. | \$6,058.26 | \$6,058.26 |
| Echeguren, Quintana & Co..... | " " dry goods | 1,663. " | " " " |
| Do. do..... | For money overdrawn | 2,312.60 | 2,312.60 |
| Echenique, Peña & Co..... | " groceries | 2,824.82 | 2,824.82 |
| Geo. F. Griffiths..... | " money loaned | 1,291.36 | 310. " |
| Juan Cazares..... | " powder, bill of Ap'l, 5 mo's. | 1,000. " | " " " |
| Guadalupe S. M. Co..... | " assessment and money loaned | 895.58 | 895.58 |
| Th. J. Bartholow..... | " money loaned | 859.65 | 741.50 |
| David Castro..... | " corn, bill of April | 755.62 | 755.62 |
| J. V. Hardy..... | " money advanced | 755.46 | 350.76 |
| George Collins..... | " services and money borrowed | 719.20 | 719.20 |
| W. A. Boardner..... | " " as millwright | 633.32 | 633.32 |
| Carreaga & Co..... | " bill of dry goods | 665.42 | 665.42 |
| Lansing Haight..... | " build'g new store (contract) | 518.60 | 518.60 |
| Henry Lowell..... | " services as mason | 474.40 | 474.40 |
| Weaver, Wooster & Co..... | " bill of flour, Ap'l | 375. " | 375. " |
| H. R..... | " services as carpenter | 345.52 | 345.5* |
| James Collins..... | " " as laborer | 327.86 | 327.8* |
| Edw'd Parker..... | " bill of fuse, Ap'l | 290. " | 290. " |
| James Grier..... | " services as blacksmith | 285.44 | 285.4* |
| Hueta..... | " bill of corn, Ap'l | 250. " | 250. " |
| Wm. Witte..... | " services as carpenter | 231.04 | 231.04 |
| Appleby..... | " " as mason | 221.84 | 221.84 |
| Dan'l Sullivan..... | " " as laborer | 206.71 | 206.7* |
| P. Termittigér..... | " " as carpenter | 206.76 | 206.7* |
| Carried to foot of next page..... | | 24,170.46 | 20,006.2* |

*Figures cut off in original.

HACIENDA DE LA ABRA,
7 September, 1866.

DEAR SIR: Upon examination, finding the bill you presented correct, I have written to Messrs. Echenique, Peña & Co., requesting them to pay you the sum of one hundred and seventy-six dollars and eighty-nine cents.

49 You will oblige me by making out a formal bill, receipted, as I will need it to file for reference. They will send it to me.

With best respects, I remain,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

Dr. B. R. CARMAN, *Mazatlan.*

HACIENDA DE LA ABRA,
7 September, 1866.

GENTLEMEN: I send by the mozo Nicolas Aquilar my letters, which you will please forward by Wells & Fargo's Express. The mail matter for the h'd'a please wrap carefully up, and send by the bearer of this, with a note stating the postage charge on each, as before.

You will oblige me by paying to Dr. R. B. Carman, U. S. consul (\$176.89) one hundred and seventy-six dollars and eighty-nine cents. Be particular to receive the bill and receipt and forward it with the letters to me.

To J. V. de Lareaga please pay the sum of one thousand three hundred and twenty-eight dollars and ninety-three cents.

I think I gave my acceptance for this bill; please remember this, and secure the paper, and send the receipt for the amount to me.

Your own bill please pay, recollecting the deduction promised on account of oil and vinegar lost, one-half, I understood you to agree upon.

I have drawn on you in favor of Tomas Huerta for two hundred dollars (\$200), and C. E. Norton for one hundred dollars.

With respect,

J. A. DE LAGNEL,
Sup't de La Abra S. M. Co.

Messrs. ECHENIQUE, PEÑA & CO.,
Mazatlan.

TAYOLTITA, MEXICO, 7th September, 1866.

D. J. GARTH, Esq're,
Treasurer La Abra S. M. Co.:

DEAR SIR: As promised, I send you full and complete statements of the liabilities left unsettled by Gen'l Bartholow, and of the moneys received and expended by me, and of the property found at this place at the time of my arrival.

I have already informed you that the gen'l would not consent to make the inventory of property asked for by me, and it was not done until some weeks after I took possession, I being absent, and having no one to do it before a proper assistant arrived.

It was, however, carefully compiled, and allowance made for the sales between 1st May and the day on which taken.

The tools I received myself. You may accept these papers in full confidence, all possible care having been bestowed upon them. The account current requires some explanation to reconcile what would otherwise convey an erroneous and injurious impression.

You will observe that the sales (cash) for the months of May and June are large, while afterwards they fall away to a few hundreds per month. The explanation lies in the fact that all sales here under the old system consisted in cash sales, though for the most part the merchandise was paid directly over for the indebtedness incurred towards the miners and other workmen.

The result of this course was to swell the apparent receipts and disbursements of cash. Now only the amount actually paid in coin is considered as cash, and merchandise is called by its own name, while the same rule is observed in the matter of receipts.

As to your remark in reference to borrowing a few thousand upon the strength of good credit in Mazatlan, let me assure you that nothing can be done in that quarter. But little confidence is felt in American mining companies, and the present condition of affairs enhances the doubt entertained.

Your company is about the last actively at work, the others having suspended for cause, and waiting for something to turn up.

I have asked, and know nothing can be had. In respect to the amounts paid to Messrs. Griffiths, Hardy, and Bartholow by me just before their departure from Mazatlan, you will find that the report then made to you differs some few dollars from the amounts respectively charged in the accompanying list.

50 This difference occurs because there were small amounts drawn, as shown by the books, prior to the final payment in Mazatlan, and of which I was not advised.

The explanation is made to avoid misconception. I would call your attention to the account of the *lña Señora de Guadalupe Co.* At the time of General Bartholow's surrender of the there was reported by him an outstanding indebtedness to that co. of \$345.58; whereas an examination shows that a credit of the amount of one assessment (\$550) had been omitted from the account.

The amount of money paid by me to them appears large and unreasonable, but nearly seven hundred dollars are borrowed money, to be returned to the sup'd't, who has loaned it to our company (to Gen'l B.).

I have paid two assessments since my arrival, amounting to eight hundred dollars, in addition to which I have paid the small balance due. Subsequently I have received notice of another for \$550, payable in S. F. 31st July, and forfeited if not paid. Sale to take place 1st August. Not feeling at liberty to pay further assessments, in view of present state of affairs and your letters to me, I wrote to Col. John McLean Taylor, U. S. commissary of in San Francisco, a telegram to you, advising that you would pay by transfer if you deemed proper. I also wrote to the officers of the company in S. F.

The history of the Promontono mine I send herewith, this having only arrived a few days since.

This, as all other mines we hold, is secured by prorogues newly obtained.

I am happy to inform you that the mill is fast assuming shape and giving promise of early usefulness.

The ditch we are getting along with very well, and the wall, a solid stone one, being well under way, and the old portion thoroughly repaired.

The place has a new appearance, although there are many improvements I would like to make in time, after the work becomes self-sustaining.

The fall to the ditch is greatly less than I had been led to believe in the absence of instruments, a recent partial survey giving me data for this opinion. It will, however, be found sufficient, I think.

The difficulties to contend with at this season in doing outdoor work, and especially masonry, are many and great; but the work is going on, not having been suspended tho' delayed. In reference to the mines, I have to inform you that we are working in the La Luz, El Cristo, and the Arrallon with the same force as before. The first of these mines has not so far answered expectations, it yielding but comparatively little paying ore, requiring great labor and expense to get it out. The better vein in the Cancero or Crosscut was reached in my absence and promises well. The Cristo so far gives better promise than the others, the metal abundant and good, showing largely and well in the vein, and lowest tunnel now being driven to connect with a shaft for draining and clearing the mine.

The work on the Arrallon is too recent to expect much return as yet, tho' the miner in charge expresses the most lively expectations. He knows the mine and takes great interest and pride in the prosecution of the work, and it having been attempted partly because of this knowledge of its worth and capacity.

As yet the yield of ore from the mines does not fill the measure of our needs for the mills, but I reduced the working force (it being costly) in June, for the sake of keeping down expenses until the mill-work should be complete or nearly so. I deemed it best to do so in view of the accumulation of ore, now heavy, though at the same time I did not know how large a part of it was worthless.

I note your remarks about working rock less rich than that treated by Castillo. In reply I would inform you that everything that is believed to contain enough to pay for packing down and beneficiating is saved. I believe I have gone over the ground, and given you a glance at the state of affairs in a general way.

With many thanks for your kind letter, I am, yours, with respect,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA,
8 de Setiembre de 1866.

Sor. D: ANDRES CAZASES, *Gavilanes* :

ESTIMADO SEÑOR: Esta tiene por objeto solamente informarle, que la cuenta que le debo de mil pesos, valor de la pólvora que le compre, esta ya para vencer el plaza, yestoi pronto pagarsela cuando guste mandame Vd. quien la reciba, con el documento correspondiente, por su pu esto entendido que el pago se verificará por una l. sobre

Durango, á la orde. del Sor. D. Jesus M. Gurrola, segun las instrucciones de V por su carta del 8 de Mayo p^o pd^o.

Soi de V. Sor mio como spre., S., at^o S., etc.

J. A. DE LAGNEL,
Administrador.

51 P. D. Adjunto va unas cuales para Durango, los cuales se sirve V. enviar por la via mas oportuno.

J. A. DE L.

From Echeguren, Q. & Co.

[Translation.]

HACIENDA OF LA ABRA, Sept. 8th, 1866.

Mr. ANDREW CASARES, *Gavilanes* :

DEAR SIR: My object in writing this is simply to inform you that the bill I owe you for a thousand dollars, value of the gunpowder I bought of you, is about to expire, and that I am ready to pay it to you whenever you please. Send somebody with the necessary document to receive it, with the understanding that the payment is to be made by means of a draft on Durango, to the order of Mr. Jesus M. Gurrola, according to the instructions contained in your letter of the 8th of last May.

I am, sir, your attentive and sincere servant.

(Signed)

J. A. DE LAGNEL, *Supt.*

P. S.—I enclose you some letters for Durango, which you will please send the best way you can.

J. A. DE L.

From Echeguren, Q. & Co.

HACIENDA DE LA ABRA,
8 de Septiembre, 1866.

Sor. D. ANGEL CASTILLO DEL VALLE, *Durango* :

SOR. MIO : Con fecha de 6 de Julio p^o pd^o deposite en la casa de los Sres. Echeguren Quintana & Cia. de Mazatlan, la suma de dos mil cuarenta y ocho $\frac{1}{100}$ pesos siendo esta el saldo debido á V. en aquella fecha.

Ahora, el 21 del pasado hice un deposite, en la misma casa, de la suma de dos mil doscientos diez y siete $\frac{1}{100}$ pesos, valor de su factura de 26 de Abril del presente año, con plazo de cuatro meses así con estos payos cerrando nuestra eta.

Habiendo arreglado con la casa de Echenique, Peña & Cia. de Mazatlan, para poder girar á la casa de V. si fuese necesario, por la suma de dos mil pesos y he girado á favor del Sor. de Jesus M. Gurrola, en la suma de nueve cientos cincuenta y tres $\frac{1}{100}$ pesos, y á mas el mismo le presentaría un L á mi favor girado por D. Miguel Lareaga, por ciento cuarenta y seis $\frac{1}{100}$ pesos.

Sirvase V. avisarme del recibo de esta y de la aceptacion de mis L.

Soi de V. Sor. mio como spre. S. ado. S., etc.,

J. A. DE LAGNEL,
Administrador.

[Translation.]

HACIENDA OF LA ABRA,
Sept. 8th, 1866.

Mr. ANGEL CASTILLO DEL VALLE, *Durango* :

SIR: I deposited on the 6th of July last, at the house of Messrs. Echeguren, Quintana & Co., of Mazatlan, the sum of two thousand forty-eight $\frac{1}{100}$ dollars, that being the balance we owed you on that date.

We made on the 21st ultimo another deposit, at the same house, of the sum of two thousand two hundred and seventeen $\frac{1}{100}$ dollars, amount of your invoice of the 26th of April, of the present year, payable at 4 months' time, settling up our account with these payments.

Having arranged with the house of Echenique, Peña & Co., of Mazatlan, the way of drawing on you, if necessary, for the sum of two thousand dollars, I have drawn a check to the order of Mr. Jesus M. Gurrola, for nine hundred and fifty-three $\frac{1}{100}$ dollars, and he will, besides, present you our check, to our order, drawn by Mr. Miguel Lareaga, for one hundred and forty-six $\frac{1}{100}$ dollars.

Be pleased to advise me of the receipt of this and of the acceptance of our checks.

I am, sir, your affectionate and sincere servant,

(Signed)

J. A. DE LAGNEL,
Superintendent.

52

HACIENDA DE LA ABRA,
8th September, 1866.

J. G. RICE, Esq're,
Supdt. Durango, S. M. :

DEAR SIR: As Col. Norton will visit San Dimas to-morrow, I have requested him to present to you the accompanying bill, and have authorized him to receive and receipt for the amount.

I also send a bill against Mr. Grassie, which you will please present to him for me, or settle it if acceptable to all concerned. Col. Norton is empowered to receive this also.

You will pardon me, I trust, for the seeming importunity, but having brought no money from the coast since June last, I am very much in need of the money to meet my current payments, and am compelled to ask for an immediate settlement.

With kind regards for yourself, I remain yours, with respect,

J. A. DE LAGNEL, *Supt.*

The Durango Silver Mining Co. to the La Abra Silver Mining Co., Dr.

| | | |
|------------|--|--------------|
| May, '66. | For balance due as per G'l Bartholow's books | \$110.09 |
| June 16. | " cash from J. A. de Lagnol | 600.00 |
| July, '66. | " 2 bottles mustard | 2.00 |
| Aug., '66. | " expense of courier to Mazatlan | 20.00 |
| | | <hr/> 732.09 |

CONTRA.

| | | |
|-----------|---|--------------|
| May, '66. | By cash from Mr. Rice | \$61.89 |
| May, '66. | " cash from Mr. Grassie | 45. |
| | " 2 trowels | 3.50 |
| | " 1 arroba of wicking | 25.00 |
| | " 25 cargas corn, at \$15 | 375.00 |
| | " sundries (nails and brooms) | 6.50 |
| | " payments to Correo | 1.00 |
| | " share of expenses of Correo to Mazatlan | 20.00 |
| | " cash | 100.00 |
| | | <hr/> 640.89 |
| | | <hr/> 91.20 |

George Grassie to La Abra Silver Mining Co., Dr.

| | | |
|--------|----------------------------------|-------------|
| March. | For merchandise (sundries) | \$20.00 |
| " " | do. do. | 14.13 |
| | | <hr/> 34.13 |

TAYOLTITA, 29 September, 1866.

DEAR SIR: I enclose herewith a receipt for the money last sent. On the 24 I received from Guadalupe Soto thirty dollars on your account, for which a receipt in Spanish was given. Both amounts are to your credit, closing your account.

Accept my thanks for your promptitude, as it came just in season.

The private note is destroyed, and while thanking you for the information, need only say that the report you heard is wholly groundless. I look into things and satisfy myself.

Yours, with kind regards,

J. A. DE LAGNEL.

J. G. RICE,
Supdt. Durango S. M. Co.

HACIENDA DE LA ABRA.
Octubre 5 de 1866.

Señor D. ANGEL CAZARES, *Garilanes :*

MUY SEÑOR MIO: Hoy se me ha presen tado el arriero Marcelino Flores con una carta de Vd. f ha. 10 de Junio del corriente año y así mismo me ha entregado el recibo expedido en la misma fecha, por treinta cargas. Una funega y nueve almudes de main cobrando el dinero de su importe.

53 Como por su grata 5 de Junio V. me da ordeu de pagar al mencionado arriero el maiz recibido á \$9 carga, hoy lo hayo quedando á su diadodicion de V. el valor

de las cargas que me entrego á 6^{ta} lo que le pagaré personalmente ó á su orden. El pago hecho fue de \$277.87 quedando en mi poder veintitres pesos quince centavos.

Sin mas por ahora quedo de Vd. afmo. y S. S.

J. A. DE LAGNEL,
Administrador.

[Translation.]

HACIENDA OF LA ABRA, October 5th, 1866.

MR. ANDREW CAZARES, *Gavilanes*:

SIR: The muleteer Marcelino Flores has handed me to-day your letter of the 10th of June of the present year, and has also delivered to me your receipts of the same date for the thirty cargas, one bushel and nine *almudes* (one almu is the 24th part of a bushel) of corn, and asked me for the value thereof.

As by your favor of June the 5th you order me to pay the said muleteer for the corn that has been received at the rate of \$9 per carga, I have done so to-day, leaving at your order the value of the cargas which he delivered to me at the rate of six reals (75c.), which I will pay to you personally or to your order. The payment made amounted to \$277.87; remaining in my hands twenty three dollars and fifteen cents.

I remain your affectionate and sincere servant,

J. A. DE LAGNEL,
Superintendent.

HACIENDA DE LA ABRA, Octubre 5 de 1866.

SOR. D. ANGEL CASTILLO DEL VALLE, *Durango*:

MUY SOR. MIO: Con esta fha. he librado á su contra, la cantidad de doscientos setenta y siete pesos ochenta y siete centavos, y á favor de Marcelino Flores, valor recibido en maiz, por cuenta de D. Andres Cázares, de Gavilanes.

Espero de la bondad de Vd. se sirvara pagarla á la vista y cagarla á mi contra como lo tengo arreglado con la casa de Echenique, Peña y Ca. del comercio de Mazatlan.

Sin otro asunto quedo de Vd. como siempre afmo. y S. S.

J. A. DE LAGNEL,
Administrador.

[Translation.]

HACIENDA OF LA ABRA, October 5, 1866.

MR. ANGEL CASTILLO DEL VALLE, *Durango*:

SIR: I have to-day drawn against you for the sum of two hundred and seventy-seven dollars and eighty-seven cents in favor of Marcelino Flores, for value received in corn and on account of Mr. Andrew Cazares, of Gavilanes.

I hope that you will be kind enough to pay it at sight, and to charge it in our account, according to the arrangement made with the house of Echenique, Peña & Co., merchants of Mazatlan.

I remain your affectionate and sincere servant,

J. A. DE LAGNEL,
Superintendent.

HACIENDA DE LA ABRA, 8 October, 1866.

Colonel C. E. NORTON:

DEAR SIR: Not returning by the 30th of last month as you had intended, I am at a loss to know whether sickness or accident has detained you, therefore write to know from yourself the true state of the case.

Your absence since the 30th Sept. has embarrassed me somewhat, as I desired to go down to Mazatlan, but cannot until you return or I can make some other arrangement.

I cannot believe that you do not intend to return, but should such be the case please inform me promptly, and it is but justice that I should be advised at once of your movements.

It is of the first importance that I should be enabled to go either to Mazatlan or to Durango, as my money here is exhausted and the people consequently dissatisfied and the work necessarily retarded.

If you intend to return, therefore I urge upon you immediate action, but if you do not, please be good enough to inform me.

Yours, with respect,

J. A. DE LAGNEL, *Supdt.*

HACIENDA DE LA ABRA,
Tayoltitla, 8 October, 1886.

DAVID I. GARTH, Esq're,
Treasurer La Abra S. M. Co.:

DEAR SIR: The non-reception of my letters written last month has no doubt caused you some surprise and uneasiness, but causes beyond control operated to prevent the mail matter, sent down by couriers, from reaching the port.

The mozo going with the letters from this place to La Puerta was bitten by a rattlesnake and died at a cabin on the mountain, where there was no person capable of bringing me intelligence or of aiding him. About a week subsequently I learned the fact, and by sending recovered the letters, etc.

The papers I now send, hoping they will reach you speedily and safely, but fearing that causes no less formidable will again interfere.

Had the boy gone down he could not have entered Mazatlan, the military operations going forward preventing all communication with the city.

We are without news, and wholly in the dark, having heard nothing for a month past.

The work is progressing, the flume is completed, and we to-day, for the first time, let water on to the wheel, in order to dress the face of some pulleys, but the ditch being incomplete, the supply of water (drawn from the arroyo) was wholly inadequate; the boiler is completed and in position, and the ditch is pretty well advanced; it is, however, a heavy piece of work, being about 2,000 feet in length that is to be walled, and much of that passes over ground filled with huge boulders that must be blasted away before the walls can be laid or the grade given.

From the river we shall have an ample supply of water, I think, though some work must be done on the dam and upper part of the ditch to make it properly available.

The La Luz mine proving unremunerative, and the small yield of ore being wholly rebellious, I transferred the force to the Cristo, in which the metal has increased in quantity and quality. It shows gold largely, and promises well, the mine being not so well opened as the other, being newer, requires attention now, as it is, or appears to be, the mine that will be looked to to supply the mills in great part.

I doubt whether your expectations will be ever realized respecting the looked-for yield of metal from the mines, though sufficient may be had to repay well, I trust.

The Guaripamey property I have secured until next January by prorogue, but I doubt whether I will be able to cover it after that date, as I suspect certain parties of being on the watch to denounce it, desiring to work it; therefore they will operate to prevent the grant to me of further indulgence.

The Guadalupe (or rather the Concordia is where they are working) mine is doing poorly, the tunnel handsomely driven and work well done, but no metal. A small quantity at the mine is all the result obtained, and I am led to believe that they will suspend operations.

In this supposition I may be wrong; have no authority for the belief, but give it as I do the other information, to put you on your guard.

About the mill but little remains to be done, and were it not for the ditch, we could speedily be at work. As it is, however, now that the walls have been so far laid, I deem it best to carry the thing to completion, and put it in thoroughly good order now, so that no after delays or suspensions may occur.

I am troubled exceedingly that better success has not attended my efforts, but the rainy season has proven a sore trial to my patience and been a serious drawback.

I have striven to meet your wishes and expectations, and regret that my success has not been commensurate with my efforts to serve you and to discharge my duties.

As to sending a successor, I deem it best to tell you now that no money could tempt me to remain in the country longer than next 1st March.

The trials and the separation from friends, lack of association, and utter waste of life, forbid the thought of longer continuance.

I speak now because ample time should be given to send out a successor.

As to subordinate assistance, that is not required.

With kindest regards to yourself and Mr. Hearn, I remain yours, with respect,
J. A. DE LAGNEL.

HACIENDA DE LA ABRA,
Tayoltitla, Mexico, 8 Oct., 1886.

Mr. T. LEMMEN MEYER,
Bankers, etc., San Francisco, Cal.:

SIR: By the July steamer, Messrs. Echenique, Peña & Co., of Mazatlan, forwarded to you at my request fifteen hundred dollars (\$1,500) in coin, for John G. Edgar, together with a letter from me to him informing him of the transaction.

Your acknowledgment for the above amount has been shown to me by Messrs. E., P. & Co., but as the party in question writes that he has not received the

money, I address you simply to ask that you will find him out through the post-office and set the mind of those interested at ease.

I am, very respectfully,

J. A. DE LAGNEL,
Superintendent.

P. S.—Please address me Messrs. Echenique, Peña & Co., Mazatlan.

HACIENDA DE LA ABRA,
8th October, 1866.

Messrs. ECHENIQUE, PEÑA & Co., *Mazatlan* :

GENTLEMEN: I send herewith mail matter which I beg you to dispatch as marked, carefully noting the charges for postage and express on each, so marked, and send me a memorandum of the charges, with address or name of each letter, that I may distinguish between private and public postage.

The mail matter for the hacienda please send up, carefully wrapping it, and making like memorandum of postage on each letter, naming so as to distinguish them.

Please pay to Dr. B. R. Carmen, U. S. consul (\$176.89), one hundred and seventy-six dollars and eighty-nine cents. Be particular to receive the bill and receipt, and forward it with the letters to me.

To Sor. D. J. V. de Lareaga please pay the sum of one thousand three hundred and twenty-eight dollars and ninety-three cents.

I gave him my acceptance for this bill. Please remember this, and secure the paper, and send the receipt for the amount to me.

Your own bill please pay, recollecting the deduction promised on account of oil and vinegar lost; one-half I understood you to agree upon.

I have drawn on you in favor of Tomas Husota for two hundred (\$200) dollars, and C. E. Norton for one hundred and forty-four (\$144) dollars.

I further desire to inform you that I have drawn on Angel Castillo (already) for eleven hundred and thirty-one dollars and seven cents, and will to-morrow still further draw for some nine hundred dollars, more or less.

This I do upon the arrangements made with you when in Mazatlan, supposing, of course, that a few dollars more or less than the two thousand will make no difference either to you or to him.

I shall probably be down this month if I can possibly do so.

With best respects,

J. A. DE LAGNEL, *Sup'd't.*

MAZATLAN, 17th Nov., 1866.

A. STOOD, Esq.,

Pres't N. Sonora de Guad'p'e M. Co., San Francisco :

SIR: As our mill is ready with the exception of the water, the ditch being yet incomplete, I desire to call your attention to the arrangement, which you seemed desirous of making, viz, to crush your ores and beneficiate the same.

This I feel satisfied we will be able to do, and would very much like now to be able to say for how much per ton the work could be done. Of course you will perceive that such conclusions can not be arrived at until the mill is in operation, but the time is near at hand when the information can be given.

In view of these facts, I beg to urge upon you the expediency of suspending all operations, such as building or the erection of works that would call for additional outlays and assessments. The tax is a very heavy one upon our co., and I have been surprised at the frequency with which the calls have been made, in view of the limited work being done and small expenditure, as I learn from the sup'd't.

Your opinion, or rather conclusion, as to what I think of the value of the property, is based on nothing said or written by me that I can possibly recollect.

I have been through the mines, have seen *all*, and while expressing no opinion, can only say that no one is justified in imputing to me either a high estimate of their value or otherwise.

Very respectfully,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

MAZATLAN, 18 Nov'r, 1866.

(56)

Messrs. WEIL & Co.:

GENTLEMEN: Pardon me for troubling you with a matter which concerns only ourselves; but feeling assured of your readiness to oblige, I take the liberty of asking your services so far as to inquire and inform yourselves as to the value of the stock

S. Doc. 231, pt 2—20

of the Nuestra Señora de Guadalupe S. M. Co., situated (the mines) near Tayoltita, Mexico.

We own a considerable amount of this stock, and desire to know what can be had for it in San Fco.

I would also ask if Mr. Ahem, or any one of the gentlemen of your house, would accept a power of attorney and act to represent this co. in its meetings.

It is necessary that we should be thus protected, and I again bring it to your attention, begging that you give me intelligence by the return steamer.

I am, very respectfully, y'rs,

J. A. DE LAGNEL,
Sup't La Abra S. M. Co.

MAZATLAN, 18 Nov'r, 1866.

Mr. MILLS:

President Bank of California, San Francisco:

SIR: I have to acknowledge the receipt of your letter of 31 August last, which reached me on the 18th of last month, but outside of this place, and too late for an earlier reply.

Mr. Exall, the gentleman who called upon you in company with Mr. Ahern, of Weil & Co., informed me that he had spoken with you on the subject of the payment of the assessment then levied, and that you stated it had been settled and paid.

Mr. Garth's recent letters to me informed me that he paid through your bank direct by telegraphic transfer.

It therefore relieves me from the necessity of drawing on N. Y. in your favor for the amount involved.

If not too much trouble, and I not asking too much, will you oblige me by ascertaining what the stock of the Nuestra Señora de Guadalupe S. M. Co. is worth in your city. (The mines are situated near Tayoltita, in Durango.) This last I mention to distinguish it, as there are several of the one name.

The president of this co. is W. Stoud, a German, of your city, and the sec'y is Pfeiffer, a German druggist.

With apology for thus troubling you, I remain y'rs, &c.,

J. A. DE LAGNEL,
Sup't. La Abra S. M. Co.

MAZATLAN, 18 Nov., 1866.

W. C. RALLSTON, Esq.,

Cashier Bank of California, San Francisco:

SIR: I enclose herewith duplicate drafts on D. J. Garth, of New York, for seven thousand dollars, which amount, together with ruling rate of premium, you will please place to my credit.

Against this amount I have drawn in favor of the house of Echenigue, Peña & Co., of this place, for four thousand dollars, and also in favor of Col. J. McL. Taylor, U. S. commissary, San Francisco, for twelve dollars and five cents.

You will please advise me of the receipt of these papers, and furnish me with a statement of my account.

Very respectfully,

J. A. DE LAGNEL,
Sup't. La Abra S. M. Co.

P. S.—I omitted to state that I had also drawn on you in favor of David P. Belknap for the sum of fifty dollars (\$50.00).

J. A. DE LAGNEL.

MAZATLAN, 17th Nov'r, 1866.

D. J. GARTH, Esq'r

Treasurer La Abra S. M. Co.:

DEAR SIR: I have to acknowledge the receipt of your letters of the following dates, viz, 31st July, 10th, 29th, and 31st August, 10th and 21st of September, and letter of introduction, all brought from Mazatlan and delivered to me by Mr. Exall at Comacho, thirty miles from this place, about the 16th or 18th of October.

By the steamer of yesterday, I received your letter of 18th September and 10th and 18th October, the letter of 10 October being handed to me by Mr. Geo. Cullins, who arrived in the "Panama" steamer.

The letters of 21st September (one sent by mail, the other sent by express) have both reached me, though with the interval of one month.

The express letter came to hand by Mr. Exall; the other containing Gen'l B.'s statement of $\frac{1}{2}\%$, arrived by yesterday's steamer.

I am informed, however, of instances of as great or greater delay, on the part of the express co., and it is difficult to determine the point positively, tho' the presumption must be always in favor of the express.

Your instructions respecting the above account will be duly attended to by me, and information forwarded at the earliest practical moment.

Please, here, accept my thanks for your anxiety on my account and efforts to assist and relieve me.

I trust I appreciate your conduct at its true worth, and that I may be enabled to meet your wishes to the utmost soon.

I accept your high recommendations of Mr. E., and so far am much pleased with him.

I notice in your letters the expression of surprise that you do not or had not received more frequent communications from me. It is but just to myself to say that there being a mail monthly it has been my practice to write by every such opportunity. Writing more frequently would not change the intervals between departing mails, nor would it, as a general thing, bring you more information, besides it would necessitate the sending of a correo to the coast more frequently.

I was last down in August, being compelled to come, and made an ineffectual attempt in October, but the military and political situation has been such for several months that great difficulty has been experienced.

Unable to reach Mazatlan, I returned to the hacienda, and waited until this opportunity to come down.

Had nothing occurred to interrupt the work, I feel sure that at this time the mill would be in operation, and the proofs at last being developed. Unfortunately, I was unable in Sept. or October to communicate with this place; and the ready money giving out at the hacienda, the workmen (not miners) refused to continue and left, thus bringing the ditch-work to a standstill.

I tried in vain in the country to obtain relief, but the doubt and distrust of American co.'s is so great that I failed utterly, and am here on the same mission.

Yesterday I used every effort with the best houses, beginning with E. Q. & Co., but could effect nothing. Lareaga I did not approach, because of his Jewish nature, and the fact that he would exact guarantees I could not give, and mortgages of the property which I would be unwilling to execute.

Don Juan Castillo has not yet arrived, tho' expected by every vessel. Had he been here I should have endeavored to effect some arrangement with him, but the fates were adverse, and I could do nothing.

Enclosed herewith you will receive $\frac{1}{2}\%$ current for the months of September and October; the balance of funds available at that date (31st Oct.) was \$2,542.04; but it was inside of Mazatlan and could not be made available.

Consequently the work on the ditch has been at a standstill, and I am now hastening to get back to again assemble a sufficient force to push it to completion.

Since the date above referred to, accruing engagements and current expenses have absorbed the amount, and somewhat more.

In the utter impossibility of obtaining aid here, I have, despite the tone of your letters, drawn upon you for the sum of seven thousand dollars (\$7,000).

I feel sure that you will experience no greater feeling of annoyance in receiving the intelligence than I do in communicating the fact; but after debating the thing long and carefully, I am satisfied that it is the best course to pursue. Longer delay in executing the work would be most injurious, perhaps fatal. The only obstacle to our being actively engaged with the mill lies in the unfinished condition of the ditch; this can only be remedied by the use of ready money. I have therefore asked for it from the only source to which I can look for assistance.

Do not let the delay and cost already experienced cause you or others to lose heart; but bear awhile longer and give an opportunity to make manifest the value of the metal and the mines.

In all my letters I have written with a view to avoid exciting false hopes and ideas and think it but right so to do, although I know that a more flattering tone would perhaps be more acceptable to many persons. I have done so because of several reasons: First, because it was my desire to avoid giving rise to expectations which might not be realized; and again, because I did not feel sufficiently familiar with the subject to indulge too freely in comment.

As to the circumstance mentioned in your letter, that certain parties had stated that the specimen ore had been "salted" for my especial benefit and deception, I can only refer you to the mention made of it in one of my letters, I forget which, but that it was done *purposely*, is more than I am prepared to say.

If I understand the term as used by miners, the facts are not as stated. It is, however, true that, though I requested to have the 2d-class ore of the Luz mine crushed for assay, specimens were taken from the 1st-class pile and prepared for my use, but I can not say that it was designedly done.

As already stated, the ore has been and is being repicked, and though a large quantity is pronounced without value, I do not accept it as gospel truth, but will satisfy myself of the fact by trial.

The mill itself may be pronounced finished, the last touches being given when I left.

That there are faults in the planning is evident, but the work had advanced too far to correct it when I took charge. The best has been done; and if the American machinery is what it is represented to be, we need have no fears. If, on the other hand, it does not fulfill all that is claimed for it, then a few faults of design or execution will make but little difference.

In getting into operation it will be my study to avoid loss or waste, and your suggestions will be duly considered. I notice in your letters the frequent use of the terms "bullion" and "bricks." Now you can not be ignorant of the fact that the exportation of bullion is totally prohibited, and coin shipped only after paying duty.

Therefore, it is self-evident that the attempt to pass it to the coast for shipment would involve a risk which no subordinate would be justified in assuming.

I will inform myself to the utmost respecting all these points, and am now doing so, but before running any risk with the co.'s money, I must be positively and clearly instructed in writing to do so.

Heavy losses from above causes have happened in this vicinity lately, showing that the apprehension of loss is well founded, tho' it may be that it happens but rarely.

I know full well how much more satisfactory the bars would be than the coin, how far it would go as an evidence of the true worth of the mine, and how great advantage might be produced to the comp'y by having for exhibition and use; but what I have said above will meet your approval I feel sure, and call out such directions or orders as you may wish carried out.

In one of your letters you appear to think that I am or have been in California; the facts are simply these: I received late in July the notice of assessment by N. S. G. S. M. Co., payable in August. Not being able to reply by the July steamer, and unwilling to pay further assessments without orders, I wrote to the president and secretary to gain time, and at the same time requested Col. John McLean Taylor, U. S. commissary at San F., to send you my telegram, which he did, signing my name as requested.

By the October steamer I received from Mr. Mills, pres'd't B'k of Cal., a note covering your telegram to him, in which he asks me if I wish the amount paid. His letter bears date 31st Aug't, 1866. Mr. Bxall, who saw and talked with Mr. M. on the 4th of October, tells me that the assessment had been paid and the matter settled, and your statement just received of the telegraphic transfer (consequent upon the receipt of the secretary's letter) leads me to understand that you have settled the call. I hear indirectly, having received no notification, that another assessment is levied. I write by this steamer to parties in San Francisco respecting the value and possible sale of this stock.

It is my desire to have you attend directly to this matter, as also of the assessments. Separated, as I am, so widely, and often prevented from communicating in time with San F., the risk of forfeiture is constantly run, in addition to which I am unwilling to shoulder the responsibility of disposing of the co.'s property.

At the present time I do not think the amount of the assessment could be obtained for the stock in the S. F. market, though I do not know, but hope to shortly; therefore the choice seems to be to sacrifice what has cost \$9,000 for a few hundreds, or to continue sinking money against your inclination.

At present the mine is, I may say, *bare of metal*. A few days before I left metal had been struck again, but in so small a quantity as to forbid much hope.

You can not fail to perceive, therefore, how embarrassing is the trust you desire to invest me with; and I beg that my meaning may be understood, and that you will either meet the calls direct or order the sale positively, as you may think best. I send you a copy of a letter I was permitted to read. It gives more insight into the intent of the Guadalupe Co. than anything I can say.

I now understand that the officers of that co. look directly to you in N. Y., for the assessments; please meet these or give positive instructions as to the disposal of your interest to some trusty party in San Francisco.

As I have already stated to you, all the mining property has been covered by prologues up to January next. What will be the result of another application I can not say; but should the worst come to the worst, a force, limited, can be put to work, and this, with the interval of some months before it can be denounced, will, I trust, serve our purpose.

59 The political condition changed quickly and quietly a few days since, the French and Imperial forces retiring from this place and going down to San Blas.

Their final departure seems nigh, and the "sims" are very much elated, of course. As

yet no authorities are installed. We are dragging along in the dark, and hoping but not knowing that any advantage will be derived from the change of rulers.

One thing appears clear, that we will not have to pay duties to Imperial customs and then do the same to the Liberal officers.

Some entertain a hope and expectation that a more liberal policy, as respects the shipment of bullion, will prevail, and that, as in the case of the large houses here, paying duties, a compromise for one-half or third may be agreed upon.

I do not think so, however, and see only one of two ways, either to coin in the mint and ship the coin, or to risk the whole.

I can not close my letter without noticing what you say, in one of your letters lately received, viz, that Dr. Hardy stated that the mill was nearly completed when he left, and but little remained to be done.

It only remains for me to say that either the Dr. failed in his observation sadly or forgot what he saw.

The seasons are sufficiently well known to you to render a description of the difficulties under which we labored necessary.

Trusting that my action will meet with your approval, I remain y'rs, with respect,
J. A. DE LAGNEL, *Sup't.*

HACIENDA DE LA ABRA, Nov'r 26, 1866.

MUY SEÑOR MIO: Acabo de recibir su apreciable fecha del 20 del corriente y me apresuro contestarsela, para así tranquilizarle á V. relativo á las sumas que le he girado.

Adjunta vease una carta de los Sres. Echenique, Peña & Co. del 17 de Octubre, en la cual me avisen que hayan pagado á la casa de Echeguren, Quintana y Cia., los dos mil y pico de pesos (la suma de s'cta con esta Hacienda en aquella fecha) de que acusa V. recibo, en s. carta del 3 de Oct're p. pdo. Ademas me informen, que pagáran á s. presentacion la suma de misprimeras o. sobre V. de \$1,131.07, y la de \$900, á la vez, esta ultima tuvo que aumentar hasta \$1,100, haciendo así un total de \$2,231.07, el cual estaba todavia en la casa citada, de E., P. y Cia á s. o. al salirme de Mazatlan hace ocho dias, no habiendose sido presentado ninguna L. de V. á la fecha.

Arregle este negocio, á mi entender, con la casa referida en el mes de Agosto p^o pd^o. q. suponía que ella así entendió, y siento mucho la mala inteligencia que ha causado á V. un mal rato. Sin mas despues de avisarle de la evacuacion del puerto, por les Imperialistas, quedará á sus órdenes, como siempre.

J. A. DE LAGNEL, *Admor.*

S. S. S.,
Sor. D. ANGEL CASTILLO DE VALLE, *Durango.*

[Translation.]

HACIENDA OF LA ABRA, November 26 de 1866.

SIR: I have just received your favor of the 20th instant, and hasten to answer it in order to set your mind at ease as regards the sum I have drawn on you.

Enclosed please find a letter from Messrs. Echenique, Peña & Co., of the 17th ultimo, wherein they inform me of having paid to the house of Echeguren, Quintana & Co., the two thousand and odd dollars (the sum of their account with this hacienda at that date), the receipt of which you acknowledge in your letter of the 3rd ultimo.

They inform me besides that they would pay, on presentation, the sum of my first draft on you for \$1,131.07, and at the same time that of \$900, which latter had to be increased to \$1,100, making a total of \$2,231.07, which is yet at your order, at the house of E. P. & Co., when I left Mazatlan eight days ago, no check of yours having been presented up to that date.

I arranged this matter last August with the said house, according to my belief, and I supposed that they understood it so. I regret much this misunderstanding, which has caused you an unpleasant moment.

Without anything more to say but that the port has been abandoned by the Imperialists, I am, as ever at your orders, your sincere servant,

J. A. DE LAGNEL,
Superintendent.

Mr. ANGEL CASTILLO DEL VALLE, *Durango.*

SIR: I send by the mozo Fabian Figaroa, the pack mule, with aparejo, etc., hired from you a few days since for Mr. Cullius.

Por no haber llegado el correo de Durango á San Dimas, y los remores de Indios por aquel camino, me ha evitado el poder enviarlos en su debido tiempo á Durango, adonde los iba despachar aun ignorante de la autoridad conocida en esta materia.

Le suplico á V., sor. mio, que se sirva atender á que lleguen estos documentos á manos de la autoridad que los conoce, y por la via mas oportuno; y espero que las razones espuestas los sesian satisfactorias, como bien conocidas, y sean oidos.

Los ultimas cambios politicos me ha depado, como dicho, en ignorancia á quien disijir mi solicitud, y por lo tanto molesto á V. como varios veces antes, suplicandole prestarse á ella, y espero saber de V. los costos incurridos, asi como cuenta debida ya, para cubrirlos.

Sin asunto mas, por ahora, sirvese V. dispensar la molestia de S. S. S.

J. A. DE LAGNEL, *Admor.*

P. D.—Sirvese V. dirijir los documentos, por saber el titulo de la autoridad competente. Vale.

[Translation.]

HACIENDA OF LA ABRA, December 5, 1866.

Mr. J. M. GURROLA, *Municipal Alcalde, Gavilanes:*

SIR: I enclose herewith two petitions for the extension of the time to work the mines Promontory, La Abra, Animas, Rosario, Los Inocentes, San Antonio, and San Felipe, located the first in the district of Guarisamey and the others in this.

As the mail from Durango has not reached San Dimas, and there are rumors that the Indians are on that road, it has not been possible for me to forward them in due time to Durango, where I was to send them, even without knowing to what authority they were to be addressed.

I request you to please to see that these documents reach, by the most timely way, the hands of the authorities to whom they pertain. I hope that the reasons stated therein may be satisfactory (as being well known), and attended to.

The last political changes have left me, as I have said, in ignorance of the authority to whom I should address my petition, and I therefore trouble you, as I have done several times before, begging you to accede to my request, hoping that you will let me know the expenses that this may entail on you, as also the account due already, so as to settle it.

Without any more for the present, be pleased to excuse the trouble of your sincere servant,

J. A. DE LAGNEL,
Superintendent.

P. S.—Be kind enough to address the documents, as you know who are the proper authorities.

HACIENDA DE LA ABRA, 10th December, 1866.

J. G. RICE, Esq., *San Dimas:*

SIR: In accordance with your note of yesterday, I send the additional four arrobas of powder asked for.— Below please find bill of same.

The Durango S. M. Co. to La Abra S. M. Co., Dr.

Deer. 10. For 4 arrobas of powder, at \$10 \$40

Please accept my thanks for your kind attention to my commission respecting the boots. They arrived safely.

Yours, very respectfully,

J. A. DE LAGNEL.

TAYOLTITA, 16 December, 1866.

Mr. J. G. RICE,
Sup'd't Durango Mines, San Dimas:

DEAR SIR: Please accept my thanks for your attention to the matter of the prologues sought by me. Herewith I send new applications, drawn in accordance with the prefect's instructions, and trust they will meet his approval.

Send these forward by the first opportunity to J. M. Gurrola, with the letter to Castillo (these, inclosed together, and directed to A. Castillo, Durango), accompanied by the letter to Gurrola, asking him to send from Gavilanes to Durango the package forwarded.

Our ride last night was pleasant, notwithstanding a slight mistake of ours as to the road and consequent detention.

With kind regards, yours, etc.,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA, 15 Dec'r, 1866.

D. S. GARTH, Esq're,
Treasurer La Abra S. M. Co., New York:

SIR: Enclosed herewith I send two papers, one a balance sheet drawn from Gen'l B.'s ledger, the other an exhibit of receipts and expenditures during his administration.

The first column of figures in the balance sheet, of course, is taken from the ledger of Gen'l B. as he left it; the next column represents credits which should have been given, but which were omitted by Gen'l B. The column in red ink shows the outstanding liabilities on the 1st May. The footing from this last is carried to the head of the 2d page, and several accounts there added, these accounts having no place in the books of Gen'l B., tho' memoranda left with me show the contracts to be his.

I arrive at the credits to be given to the workmen up to 1st May by means of certificates left with them by Gen'l B. at my request. Supposing that, as a matter of course, you have the original of the statement submitted to me, I will endeavor succinctly to go over it, and point out its correspondence, or otherwise, with the books here.

First, as to the amount of cash received from the Co. by Gen'l B., I find that it agrees with the books, provided a necessary correction be made. In deducting the \$200 (January premium from Messrs. Echeguren, Quintana & Co., which is improperly charged to me in the statement) from \$102,172.00, the remainder is put down as 101,962 instead of \$101,972, and again, in putting in a condensed form, to sum with the overdrafts and outstanding debts, it is put as \$101,902, instead of \$101,972.

As to the \$200, I can only say that Gen'l B. turned over to me a check on the Bank of California for \$75 and \$48 in coin, in Mazatlan, received from the Durango S. M. Co.; with these two exceptions I received no money or credit from my predecessor. I hold the acc. current—sent by his bankers, Mess. Echeguran, Quintana & Co.—for the latter part of 1865 and 1866 up to 12 May. In these the proper credits for January and March premiums—\$100 each—are duly given, and Gen'l B. derived the benefit of them, tho' he omitted to place it in the cash-book until May.

It will be apparent that I cannot be held responsible for what I have not received.

Failing to take up these \$200 premiums in his cash-book, the overdraft amounted to \$2,541.67, whereas I had to pay \$2,312.60 only as the balance due for overdrafts. See note, page 2 of balance sheet.

This leaves a discrepancy of \$29, which I cannot explain, it not being my affair.

The dues to sundry persons overrun the amount stated in the paper submitted to me, as shown in the Dr. side of the exhibit now forwarded to you.

The payment on J. V. Hardy's stock by Wilson, and T. J. B's stock, are duly noted in their accs., and correspond.

With reference to the ac. of the Guadalupe S. M. Co., you will perceive that Gen'l B. acknowledges a balance due by his books of \$345.58, whereas the true balance in their favor was \$895.58, arising thus: At the time of my arrival here three assessments had been levied; the first was paid by Gen'l B., and the Guadalupe Co. debited for the amount, \$550, but no corresponding credit for the assessment was given.

The second assessment was paid by you, by telegraphic transfer, in the winter; no mention of that, as a matter of course, is made here, but there was a third assessment due when I arrived here, and credit was given for it only.

The credit omitted for the former or first assessment had therefore to be allowed by me, as the credit allowed that company was mostly for money borrowed from the sup'd't, and it was in reality thro' mistake, offsetting the borrowed money by the payment of an assessment.

It will be observed that the individual accounts differ in some respects from Gen'l B.'s statement; this arises from the fact that the statement is drawn from the *ledger up to the 30th April*, tho' Gen'l B. continued to hold the books, for settlement and balance, up to the date of his leaving, delivering them to me in Mazatlan.

During this period he made many entries which he had forgotten to take up or consider, tho' a careful examination shows me that they were his own transactions, entered a little after date.

I trust that the papers forwarded will meet your approval.

I remain, sir, yours, with respect,

J. A. DE LAGNEL, *Sup'd't.*

Mr. G. F. NOLTE, *Consul:*

SIR Your note of the 15th Dec'r was handed to me a few days since, at San Ygnacio, as I passed that point on my way to this place.

I regret not having seen you, as it would have been more satisfactory to have talked over the matter of your employment, etc.

At present I am not prepared to employ you, but think it more than probable that the services of some one having your knowledge and experience will be needed. Therefore, with a view to this probability, I should be pleased to hear from you again on this subject, and to know what salary you would expect as amalgamator, assayer, etc., with charge of the mill.

You will understand also that I should prefer to know what testimonials as to character and capability you possess, and would moreover have you informed of my unwillingness to remove you from your present position unless with the consent of those interested.

Trusting that the above may meet your approbation, I shall expect and hope to hear from you soon again.

With respect, I remain,

J. A. DE LAGNEL.

MAZATLAN, MO., 5th January, 1867.

Mr. D. J. GARTH, *Treasurer La Abra S. M. Co.*:

SIR: I hasten to acknowledge the receipt of your three letters of the 1st, 10th, and 20th of November, respectively, and in response will endeavor to place you in possession of all the necessary information to enable you to judge of our condition and prospects here.

In your latest letter, the 20 Nov'r, you there informed me that you can meet no further drafts upon you; yet I had already, about the 17 Nov'r, drawn on you as treasurer for the sum of seven thousand dollars.

I wrote to you fully by the same mail, and hoped to be able to send the letter via Acapulco, and thus reach you before the draft. In this I was disappointed, and my letters having gone via S. Francisco will reach you at the same time that the d't comes in for payment. I trust that, despite what you say, you will find some way to satisfy the draft, for if it goes to protest it will be of incalculable injury to the best interests of the co. To me the consequences of such a thing would be both mortifying and most embarrassing, but to the comp'y's interests they would prove far more serious.

It is therefore that I urge upon your serious consideration the interest at stake, and pray that a prompt settlement be given upon presentation.

The prospect at present is most favorable; the mill is in working order, the retort and furnaces ready for the separation and preparation of the silver for market, and the ditch so far advanced when I left that I expect to find it completed upon my return.

The stock of ore is large, and, I believe, good, though that remains to be seen.

Of the success I have strong hopes, and the few rough notes on the back of your letter, made by Col. Gilham, respecting the composition and class of ores, gives additional ground for hope.

I have just received application from a German metallurgist, said to be both competent and reliable. I have written to him for testimonials, etc.

He has been in this country three years, and has worked as amalgamator at the Dayton Mills, in Washoe or Nevada.

I am here for the purpose of securing some articles needed for the store, to keep up the stock and meet the wants of our people.

Articles are scarce and prices high, because of a difference or difficulty between the merchants and the Gov't respecting the duties to be paid for the goods ordered, and now in ships almost in sight. The condition of affairs is not satisfactory; people feel no security, and some of the most wealthy are determined and preparing to leave for Europe to remain.

Respecting what you say about the contraction of bad debts, large or small, I would inform you that I have endeavored to carry out your instructions. As to the amount received from cash sales of mdse., it is very small, the number of people about Tayoltita being less than formerly.

As those employed by me receive two-thirds of their earnings in goods, they have no great need to purchase more. Then there are other points within striking distance which are endeavoring to attract the little trade there is, and so, between a diversity of causes, the receipts of cash are very small indeed.

The *Guadalupe Mine* does not improve. When I left the hacienda the sup'd't of that co. had only four barreteros at work, and said that if the metal did not improve he would reduce the force one-half.

64 I really think that the property is now without value, though what may be hidden none knows.

I had written to Mr. Mills, pres'd't of the Bank of Cal., and to the house of Weil & Co., asking that they would inquire and ascertain market value of Guadalupe stock, if it had any at all.

I have no reply from Weil & Co., but the Bank of Cal. sends me the following extract: "The sec'y of this co., Mr. Pfeiffer, says there is none of this stock for sale

that he knows of; on the last assessment which was levied on same, some of it was advertised for sale for assessments, but before day of sale it was all paid. He would not say what it could be bought or sold for, nor would he say who the stockholders were, except that there were two or three who held very largely of the stock, some 3 or 400 shares each. When asked what he would sell his stock for, his reply was, "I would not sell at all, but would rather buy, if I could get it cheap." When asked if the stock was worth 10 or \$15 per share, he said he thought you could buy all you wanted at those figures."

You will perceive how loosely these things are done where no interest exists to make one guarded; from the preceding it is evident that it was known that I made the inquiry, though it is true that another view can be taken of it.

Whether the company intends to build works, etc., etc., it is doubtful at any rate. 'Tis true the letter I read, similar in character to the one you received, said so, but I find out here that the sup'd't is trying to sell the five-stamp battery which they have had here for two years. Now, the battery is a portion of the machinery always needed whether the system followed be American or Mexican.

I think that they might have intended to go ahead with the work a short time back, but scarcely believe they would sell the battery if they intended to build, nor can I understand the matter of going to work after the mine has failed to yield anything.

The metal from this mine, beneficiated at Guarisamay, gave only about \$56 to \$60 per ton. You write to me in a suggestive way that does not at all meet the object in view.

You advise me in an undecided manner to sell the co.'s interest in this stock, but do not say so positively; and, again, I have no means of doing so save through letter communication and third parties, strangers to me, in California.

Why not, as I before suggested, determine the question and duly authorize some party of respectability to act as your agent and sell, giving necessary power of attorney.

In Mexico I am really more out of sources of information or communication with Cal. than you are. You ought to take into consideration, too, the fact that I am very loth to venture to dispose of your property. If the sale should prove acceptable, all is well; but if the property be sold for a song and the mine should ultimately prove good, the blame would be with me.

I give you all the information I can gather. You are therefore as well informed as I, and can instruct an agent as readily as, or more so than I can. The property at Guarisamay is "*in status quo*;" the works have caved during the last rainy season, and I tho't of putting some men in and working upon it to restore it, so that you might get in, which is prevented now by the fallen mass.

Don Juan Castillo is here; will go in time to Durango, and proposes visiting Tayoltita. He called on me, and showed me a letter he had received from you in response to one written by him to you from Balboa, Spain.

He expresses great interest in the enterprise and its success, but makes no disguise of the fact that he thinks one hundred thousand dollars too much has been spent; that a different plan would have been his, viz, to work with improved battery to perfect the crushing, but to use no other American machinery—to use the *arastres* and patio as of old. He thinks that the mode.

Under the circumstances there is not the slightest probability of his taking a dollar's worth of stock or advancing a cent unless he sees with his own eyes good grounds for the investment. American credit is poor, and American success as miners in this country is doubted, I find.

After we get to work, there is much work to do to put the mines, the hacienda, etc., in that order which is desirable. Now we strive to begin to mill and yield; to be self-sustaining and do somewhat more, if possible.

I have in my letter to Mr. Hearn, which is not official, stated that you had spoken about my remaining here; to this I desire to give an immediate and distinct answer. I could not under any circumstances, or for any consideration, consent to remain longer than the period contracted for.

I desire to do rightly in all things; but regard for myself and my immediate family demands that I should be elsewhere as soon as possible.

You will please, therefore, bear in mind what I long since communicated to you, viz, my desire and determination to relinquish the position upon the close of my year as contracted for.

65 To this course I adhere, and shall expect to have a successor sent out or named.

Mr. Cullins and Mr. Exall are both with me; the two mines are again at work, or being worked, and I desire to make an addition of one or two more soon.

The prospect from the mines is not so good as formerly, though they vary so constantly that I have ceased to permit myself to be readily elated or depressed by their condition. Enclosed I send the monthly papers.

Yours, respectfully and truly,

J. A. DE LAGNEL, *Sup't.*

MAZATLAN, M'O, 5 January, 1867.

WM. C. RALLSTON, Esq're,
Cashier Bank of California:

SIR: The steamer just arrived has brought to me your letter of the 26th ultimo, together with the statement of my $\frac{3}{4}$ and the returned check.

After comparing the above with my $\frac{3}{4}$ here, I find it correct, and acknowledge as requested by you.

Please accept my thanks for your kindness in making the enquiries respecting the stock (mining) and its probable worth in San Francisco.

Very respectfully,

J. A. DE LAGNEL,
Sup'd't La Abra S. M. Co.

MAZATLAN, 5 January, 1867.

WM. C. RALLSTON, Esq'r,
Cashier Bank of California:

SIR: The steamer which arrived yesterday brought to me your letter of the 26th ulto., together with the statement of my $\frac{3}{4}$ and the returned checks.

After comparing the above with my $\frac{3}{4}$ here, I find it correct, and acknowledge, as requested by you.

Please accept my thanks for your kindness in making the enquiries respecting the mining stock. I desire to inform you that I have drawn against the balance in your hands, in favor of Echenique, Peña & Co., of this place, for two thousand four hundred and thirty-seven dollars and ninety-five cents (\$2,437.95); and in favor of J. P. Newmark (I have not my book with me, and write from recollection) for (\$500.00) five hundred.

Very respectfully,

J. A. DE LAGNEL,
Sup'd't La Abra S. M. Co.

HACIENDA DE LA ABRA, January 13, 1867.

Col. J. O. DE LAGNEL,
Supt. La Abra S. M. Co.:

SIR: As you was to have returned to the hac'da from Mazatlan by the 2nd inst., and as I have heard nothing direct from you since you left, I am naturally anxious concerning the cause for your long absence, and send the bearer to meet you at Mazatlan or on the road in order to ascertain of your safety and the time we may look for you here.

Also, in case you have not yet left San Ygnacio, to inform you that there is not sufficient money on hand to meet the next memorias, and there are bills for lime and coal due, as you are aware, and the holders only await your return to call for their amounts.

The ditch, dam, etc., will be entirely completed by Wednesday next, and I would have your instructions as to what employ the mason upon after that time, or discharge them.

Hoping to see you soon safe and well, and that you may experience no trouble on the road,

I remain, sir, yours, most respectfully,

CHAS. E. NORTON,
Sup't pro tem.

All well here.

HACIENDA DE LA ABRA, 15 January, 1867.

Mr. G. A. NOLTE, Cosala:

SIR: Upon my return I find the mill, etc., so far advanced as to warrant me in writing to you again upon the subject of your employment as amalgamator and assayer.

I desire to put the mill in operation at the earliest practicable moment, and will be ready within a week or less. Therefore would like to have you present as soon after the receipt of this as possible.

The question of compensation is the only unsettled point, and upon this head I can make no direct proposition, though as Col. Norton leaves in the morning for your place he will see you, and I have authorized him to arrange with you if possible.

You will understand, of course, that aside from general necessity for care in expenditure, that we are just starting the work, after a heavy outlay of money in build-

ing, etc.; therefore for the present must exercise additional care in matters of this sort.

Should you determine to come, as I have already intimated, I would wish to have you here at once, as there are many minor things yet to prepare.

Very respectfully,

J. A. DE LAGNEL, *Sup'd't.*

HACIENDA DE LA ABRA, 15 January, 1867.

Col. C. E. NORTON:

SIR: I have written a letter to Mr. G. A. Nolte, of Cosalá, which you will please deliver to him for me, and as the question of compensation is one I can not arrange at a distance from him, you will please explain to him what I endeavor in my note to him to make plain, viz, that we are only just starting our operations, after heavy outlays, and as yet no returns.

Moreover, he is, as it were, a stranger, and his merits unknown.

You will endeavor to secure his services at the lowest possible figure, and I would put as a limit \$150 per mo.; though should you find it impossible to arrange for less than 200 (which I understand he receives at present) you may contract at that price, dependent upon results.

While in Cosalá you may also contract for some eight cargass of panocha, *delivered here*, with a credit of three months.

Urge upon Mr. Nolte, should he consent, the necessity for promptitude.

Very respectfully,

J. A. DE LAGNEL.

HACIENDA DE LA ABRA, 30 January, 1867.

Mr. J. G. RICE,

Sup'd't Durango S. M., San Dimas:

SIR: I send by arriero with mules for one carga of panocha, which will be needed here, perhaps, until the new panocha arrives.

The panocha purchased by me elsewhere was counted 768 cakes of ten and half ounces each to the carga.

Please be explicit on this point, as to what constitutes a carga; and send bill with it, charging it to my %.

You will please send me as good as you have, as damaged panocha will not go, except by virtue of necessity, and at a sacrifice.

Very respectfully,

J. A. DE LAGNEL, *Sup'd't.*

HACIENDA DE LA ABRA, 30 January, 1867.

Co. C. E. NORTON:

SIR: I find it necessary to leave for a few days, and as you will probably return before me. I leave this note for your information in my absence. A partial examination of the matters committed to your special care exhibits mistakes which require explanation from you.

Until this is done, therefore, I could not entrust these matters again to your hands, though I trust you will be able to satisfy me in regard to this. In the meanwhile, therefore, remain as a guest until I get back, which will be in a few days.

67 Mr. Exall I leave in charge during my absence; therefore you need not trouble yourself with anything connected with the establishment.

This, of course, is a thing in which you are too deeply interested to slight or treat with indifference, and I trust you will agree with me as to the propriety of the course pointed out.

Respectfully,

J. A. DE LAGNEL, *Sup'd't.*

HACIENDA DE LA ABRA, 30 January, 1867.

Mr. C. H. EXALL:

SIR: It being necessary as you are aware, for me to go to the port of Mazatlan at this time, I leave you, during my absence, in full charge of the hacienda, its material, and business, to control and manage as your best judgment dictates, under existing circumstances.

Should Mr. Norton return during my absence, you will please give him the note I have written and placed in your hands; and as, therein, he is distinctly informed

by me that I desire him to remain only as a guest until my return, you will not any mit him to have access to the books or papers of any description, nor interfere inperwise with the affairs of the establishment.

To provide against any possible contingency that may occur, I make over to you (in case of death or serious accident to myself) all power or authority vested in me in virtue of my agency as superintendent for the La Abra S. M. Co.

Very respectfully,

J. A. DE LAGNEL, *Sup'd't.*

TAYOLTITA, *Enero 30 de 1867.*

Sor. D. ANTONIO ARAIZA, *Guarisamey* :

MUY SOR. MIO: Yucusá recibirá Vd. una carta escrita por D. Juan Castillo de Valle sobre el negocio de la cuida de la mina del Promontorio.

Desearia saber si Vd. accepta la proposicion hecha con instrucciones de la compania en la carta mencionada.

En tal caso se servirá Vd. hacerlo por escrita dando asimismo noticia del cambio al que hoy está empleado como guardian, que es Luis Aguilar.

Sin otro cosa por ahora queda, S. S.,

J. A. DE LAGNEL,
Pr. C. H. EXALL.

(Translation.)

TAYOLTITA, *January 30, 1867.*

Mr. ANTONIO ARAIZA, *Guarisamey* :

SIR: Inclosed please find a letter written by Mr. Juan Castillo de Valle on the matter of the care of the mine Promontory.

I would like to know whether you accept the proposition made in said letter by instructions of the care of the company.

In which case you will be kind enough to let me know by mail, giving likewise notice of the change to Louis Aguilar, who is now the keeper.

Without anything else for the present, I remain your servant,

J. A. DE LAGNEL,
Per C. H. EXALL.

MAZATLAN, MEXICO, *5th February, 1867.*

WM. C. RALLSTON, Esq.,

Cashier Bank of California, San Francisco :

SIR: I inclose herewith duplicate draft on D. J. Garth, esq., of New York, for seven thousand five hundred dollars in your favor.

Please place this amount to my credit, as also the premium you may allow according to ruling rates at date of reception.

Against this draft, and the balance of four hundred and seventy dollars (being accrued premiums on former drafts), previously to my credit, I have drawn in favor of Echenique, Peña & Co., of this place, for seven thousand nine hundred and seventy dollars.

I am, sir, very respectfully, your obedient servant,

J. A. DE LAGNEL,
Sup'd't La Abra S. M. Co.

69

MAZATLAN, MEXICO, *5th February, 1867.*

D. J. GARTH, Esq.,

Treasurer La Abra S. M. Co. :

SIR: I had hoped, and fully expected, to be able by this time to send forward some return for the outlay incurred by the company in the prosecution of its enterprise; but am disappointed in not yet having succeeded in bringing on the water in sufficient quantity to drive all the machinery.

I have therefore set to work upon the dam and ditch again, and by this time fully expect that it meets the requirements of the case.

I shall, immediately upon the completion of the work above alluded to, put the mill in operation, and hope to be able to meet your expectations.

I am in hopes of being able to export by authority, upon the payment of a certain percentage, the bullion, or part of it, direct to New York. This I desire to do, believing that a few bars of the metal to speak for itself would be of more value to the company than the proceeds in coin.

The supplies laid in during the past year being in great part exhausted, and a new

supply being absolutely necessary to keep the mines, &c., going, and there being necessity for ready money in order to purchase the requisite supplies, I have drawn upon you for seven thousand five hundred dollars in favor of the Bank of California.

This I would not have done had it been possible to do otherwise; but no assistance can be had in this country.

I have satisfied myself on this point, and had only the alternative to stop operations or draw on you. Thinking that the latter would be the less objectionable course, despite the difficulties in the way, and believing that the mill will give it back more speedily in this than any other course to be adopted, I have acted as my best judgment dictated, and as I trust you will approve.

The mines are looking better, yielding more, and I believe, richer metal, and the outside attendant expenses of building and improvements will be suspended as soon as the ditch and dam serve their purpose.

In explanation of my presence here, I desire to state that it was absolutely necessary I should be here in person to arrange for the funds needed and to purchase supplies required at once.

The country hereabouts is quiet, though perfectly stagnant, and exhausted by the past year's work.

It is difficult to procure transportation in consequence of the seizures, sales, or confiscations that have occurred within the period named.

Trusting that my action may be approved.

I remain, yours, with respect,

J. A. DE LAGNEL, *Sup'd't.*

HACIENDA DE LA ABRA, 13 February, 1867.

Col. C. E. NORTON:

SIR: This will authorize you to proceed to San Ygnacio, San Juan, or point below for the purpose of purchasing the following stores needed for the approaching season, restricting yourself to the prices annexed: 20 cargas panocha (10 oz.) at \$50.00; 150 arrobas lard, at \$6.00; 20 cargas beans, at 12.00; 150 cargas corn, at 6.00. These stores must be delivered here free of duties, and I will pay for same on delivery of the whole amount contracted for by each party, respectively, by draft on Mazatlan.

You will make written agreements and give one copy to the party contracting, instructing each one at the time to bring and exhibit the contract at the time of delivering the produce.

The duplicate copy you will retain and bring for my information.

The panocha must be delivered, say one-half at once, and in like manner with the lard and other articles. In explanation of the paragraph above, respecting the mode of payment, understand that a portion (say $\frac{1}{2}$ or $\frac{3}{4}$) will be paid upon each delivery, but the total amount due will be paid only upon completion of the contract.

I do this only to insure observance of the engagement.

For this service I will accept your proposal of \$100.00 per mo., and in addition will allow for your expenses \$1.25 per day. As a matter of course, these articles are to be of the best quality, and the panocha I prefer is that of 10 ounces. The lard should be delivered in skins, for storage.

Respectfully,

J. A. DE LAGNEL,
Superintendent.

69

HACIENDA DE LA ABRA, 14 February, 1867.

Mr. J. G. RICE,

Sup'd't., Durango S. M. Co.:

SIR: The expected supply of panocha not having yet arrived, I write by the arriero to ask that you send me another carga, to last until such time as ours may arrive.

You will oblige me by forwarding a bill of charges for this and the previous carga purchased a short time since.

This is requisite in order to enable me to know at what price we can sell the panocha to our people.

With thanks for past kindness,

I remain, yours, respectfully,

J. A. DE LAGNEL, *Sup'd't.*

HACIENDA DE "LA ABRA," Febrero 14, de 1867.

Sor D. ANGEL CASTILLO DE VALLE,

Durango :

MUY SOR MIO: Para suplir el consumo de la piña estacion, me hacen falta, las cosas siguientes que desea Vme remita con la mayor brevedad.

Mi surtido de Sebo es reducido é importa mucho aumentarlo, sin perdido de tiempo. Nopudiendo pasar yo a Durango y recordando nuestros tratos anteriores, me dispo a Vd en este caso, espero la moderacion posible de precios y que los efectos sean de buena calidad. Deposito en Vd plena confianza y pasa el pago depositaré, come anteriormente, el dinero en la casa de Echequren, Quintana y Cin, con plazo de cuatro meses.

Los efectos son los siguientes :

100 at sebo=1 caja cigarros doubles, 1 caja cigarros sencillas—1 caja puros. 4 docenas Zapatones de Cordoban (de Mujer surtido, de 6 puntos 2 docs., de 7 puntos 1½ doc. y de 8 puntos 6 pases.

4 doc. Chancas de Varilla de las mismos dimensiones que el Zapata alto.= 1 doz. zarapes mitad de medio labor y mitad de labor entera.

1 doc. sombreros de palma, surtido de copa redonda y plano. 1 doc. sombreras de lana, (del pais) surtidos con dos o'tres de palda ancha. 50 cargas costales=5 gruezas lanas. 8 gruezas de logas=20 piezas manta trigüña del pais. Sin mas por ahora, quedo como siempre afnd.

Y. S. S.

J. A. DE LAGNEL.

[Translation.]

HACIENDA OF LA ABRA, February 14, 1867.

Mr. ANGEL CASTILLO DEL VALLE, *Durango :*

SIR: In order to supply the consumption for the next season I need the following things, which I wish you to send to me as soon as possible.

My supply of tallow is limited, and it is very important to increase it without loss of time. Not being able to go myself to Durango, and remembering our previous dealings, I apply to you in this case expecting that the prices be moderate, and that the goods of good quality. I have full confidence in you, and for the payment I will deposit, as I did before, the money at the house of Echequren, Quintana & Co., in four months' time.

The goods are the following: 100 arrobas of tallow; 1 box double cigarettes; 1 box single do.; 1 box cigars; 4 doz. ladies' buckskin shoes, assorted, of 6 points; 2 doz. of 7 points; 1½ doz.; and of 8 points 6 pairs; 4 doz. slippers of the same sizes as the high shoe; 1 doz. blankets (*zarapes*) half full work, and the other half of half work; 1 doz. straw hats, of assorted, of round and flat head; 1 doz. woolen hats (domestic manufacture) assorted, with two or three of wide brim; 50 cargas *carrales* (some kind of bags or sacks); 5 gross ropes; 8 gross thinner do.; 20 pieces dark cotton (of domestic manufacture).

Without anything else for the present, I remain, as ever, your affectionate and sincere servant,

J. A. DE LAGNEL.

HACIENDA "LA ABRA," Febo. 25 de 1867.

Cuido. Gefe politico, del partido de San Dimas :

Mando á D. Apolonio Sainz, con los papeles y quias de mi factura de efectos, de Mazatlan que recibí el sabado pmo. pdo. para arreglar los derechos que causaren. Hoy en la mañana me presenté á la oficina respectiva con dichos papeles para hacer el pago que corresponde á este estado, perase me dijo que esta oficina consulto á esa de su carao y que no podia determinar sin el consentimiento de esa superioridad.

70 Para evitar equívocos ó confusiones va el mencionado Sainz lo mas pronto que se pudo para esplicar y averiguar la sum que se debe. Los efectos no llegaron á un tiempo, pero en dos dias distintos y con el consentimiento del Receptor se dejó el ar reglo de las guias para la llegada, de los otros. Habiendosa recibido el Sabado en la tarde y siendo necesario examinar las Facturas, pases, &c., &c., ere imposible presentarlos antes de hoy, y no comprehendo come se informa con tanta violencia por este Sor. Receptor, debiendose considerar que los estrangeros no estamos bien informados de las formalidades de costumbre y que se nos debe ver con la consideracion de tales.

Soy de O. S. S.

J. A. DE LAGNEL,
Administrator.

[Translation.]

HACIENDA, "LA ABRA," February 25, 1867.

To the Citizen political chief of the District of San Dimas:

I send Mr. Apolonio Sainz with the papers and "guias" (document to prove that the customs and duty are paid at the custom-house) of my invoice of goods from Mazatlan, which I received last Saturday, in order to settle the duties to be collected. I presented myself this morning at the proper office with said papers to make the payment belonging to this State, but was told that this office had consulted that in your charge, and could not decide without the consent of that superiority.

To avoid mistakes and confusions, I send the said Sainz as soon as possible, in order to explain and ascertain the sum due.

The goods did not arrive at the same time, but on two different days, and, with the consent of the receiver, the arrangement of the "guias" was left till the arrival of the others. The goods having been received Saturday afternoon, and it being necessary to examine the invoices, passes, &c., &c., it was impossible to present them any sooner, and I do not understand how this receiver gives such a strong report when it ought to be considered that we foreigners are not well informed of the customary formalities, and that we ought to be treated as such.

I am, your sincere servant,

J. A. DE LAGNEL,
Superintendent.

Recibi la Guia No. 163, acompanaba los efectos remitidos por la Casa de Echenique, Peña y Cia, del comercio de Mazatlan, y la he comparada con la cuenta que Vd. me remitió el 24 de Febrero, pmo. pdo.

Dicha cuenta es de conformidad con la mia, si, exceptuo los derechos de internacional que fueron pagados en Mazatlan.

El esto, veinteun pesos treinta y seis centavos, estoy pronto á pagar, perono me es posible hacer el mismo pago dos veces, y si algun equivoco hay fué el hecho de los empleados de la Admon. de Mazatlan, y en consecuencia de lo acostumbrado el año pmo. anterior.

Es evidente que el heco de las Autoridades de la Aduana de Mazatlan—me deja libre de todo responsibilidad, y si alguna hay, debe recaer á los que á ella dieron lugar.

Espero de la bondad de Vemo.—se sirva mandar la Fomagnia para la Guia No. 163, ya mencionada prévia la admission de la suma que estoy dispuesto á pagar.

Independencia y Libertad.

Tayoltita, Marzo 10 de 1867.

J. A. DE LAGNEL.

Ciudadano Receptor de Rentas de Tayoltita.

[Translation.]

I received the "guia," No. 163, which accompanied the goods sent by the house of Echenique, Peña & Co., of the commerce of Mazatlan, and I have compared it with the account which you transmitted to me on the 24th ultimo.

Said account agrees with mine with the exception of the duties of Internacion which were paid at Mazatlan.

The balance, twenty-one dollars and thirty-six cents, I would be ready to pay it had it not been impossible for me to make the same payment twice. If there is any mistake it was committed by the employés of the custom-house of Mazatlan on account of the custom observed last year.

It is plain that the mistake of the custom-house authorities of Mazatlan frees me from all responsibility which, if there is any, ought to fall on the persons who occasioned it.

71 I hope of your kindness to please send me the *return guia* to the *guia* No. 163, already mentioned, previous to receiving the sum which I am disposed to pay.

Independence and liberty.

Tayoltita, March 10, 1867.

J. A. DE LAGNEL.

To the CITIZEN RECI^{ER} OF REVENUES, *Tayoltita.*

HACIENDA DE LA ABRA, Marzo 19 de 1867.

Señor D. JOSÉ MA. MILAN,
Agua Fria:

El portador de esta, Victoriano Sandoval, va á la Agua Fria por el resto de pa-nocha, la que se servirá Vd. entregarle.

Como los cacastles están muy persados del modo que estan ompacados, lo he autorizado para reempacarlos—siendo el responsable por ellos hasta llegar aquí.

Estoy entendido que una carga de panocha hace tres cacastles, si así es, y todos tienen el mismo numero, hay todavía que entregar cuarenta.

Hayame Vd. favor de decirme si estoy bien informado, diciendo cuanto fue traída por Huerta.

Sin mas, quedo, &c.,

J. A. DE LAGNEL, *Admñr.*

[Translation.]

HACIENDA OF LA ABRA, March 19th, 1867.

Mr. José M. MILAN,

Agua Fria:

The bearer of this, Victoriano Sandoval, goes to the Agua Fria after the balance of the brown sugar, which you will please deliver to him.

As the bags are very heavy the way they are put up, I have authorized him to re-pack them, and make him responsible for them till their arrival.

I understand that a carga of brown sugar makes up three bags; if that is so, and they all have the same number, fifty more will have to be delivered yet.

Do me the favor to tell me if I am well posted; and, also, how much Huerto brought.

I remain, your affectionate and sincere servant,

J. A. DE LAGNEL,
Superintendent.

HACIENDA DE LA ABRA, 19 March, 1867.

Mr. F. SUNDELL,

In charge Durango Silver Mines, San Dimas:

DEAR SIR: I send by Mr. Edgar two lbs. best black tea, at \$2.25, in accordance with your request. Should you require other tea of inferior quality, for sale, we can send it to you; but presuming that you wished it for the house, I send this. I could have sent by the old man from San Dimas, but hearing that he had not delivered Mr. Carr's boots, I thought he might do the same with the tea.

I return also the wire cloth, it not suiting the purpose.

Very respectfully,

J. A. DE LAGNEL.

MAZATLAN, April 10, 1867.

WM. C. RALLSTON, Esq.,

Cashier Bank California:

SIR: I enclose herewith duplicate drafts for five thousand dollars (gold coin) in your favor against D. J. Garth, esq., of N. Y.

Against this amount I have drawn on your bank, in favor of Echenique, Peña & Co., of this place.

Please place the above amount, with premiums, to my credit, and oblige,

Yours, respectfully,

J. A. DE LAGNEL.

TATOLTITA, DURANGO, MO., May 6, 1867.

72

D. J. GARTH, Esqr.,

Treasurer La Abra S. M. Co.:

Yours of the 24th April was received some days previous to the departure of Col. De L., who will no doubt reach N. Y. sometime prior to the reception of this. Col. De Lagnel will, of course, give you a full and detailed account of affairs as he left them, making it useless for me to make any further mention of them.

Since his leaving I have, as far as I think safe, reduced the number of hands at the mines, keeping only a sufficient number to show that they are still being worked. I have a light force in the Cristo; no improvement in the metal; a light force in the La Luz; the metal about the same. The La Abra, which we started on a month or two since, and which should have been worked long ago, is daily improving, and I am in hopes will yet give some returns. Mr. Cullins seems quite sanguine in reference to it.

Col. De Lagnel will give you an account of the mill and its work, which did not exceed our expectations. * The Col. was to have sent from San Francisco on his way

through a set of screens much finer than the ones we had been using. I expect them down by next steamer. The new screens may be a great improvement on the old ones. At all events, I will give them a trial, and with the best possible advantage.

I have discharged the greater portion of the hacienda hands. The oven for roasting the ore, which was commenced before the Col. left, is nearly completed. There is no improvement in the difficulties which we have had to contend with in reference to buying goods and getting duties reduced. In fact, instead of an improvement, they are adding additional taxes. Col. De L. before leaving laid in a partial supply of provisions for the rainy season. I have since bought corn at a much lower price than has been generally paid for it.

I start for the port in the morning; while there will buy a light assortment of goods, which I must have; my intention is to buy sparingly of everything. If there is anything special which you desire a statement on, please inform me and send a letter of instructions.

If you have any papers which refer to the boundaries of the different mines belonging to the co., please send them out by earliest opportunity; we may need them here.

Hoping that my next may be of a more cheering nature.

I remain, yours, with respect,

C. H. EXALL.

MAZATLAN, May 17th, 1867.

D. J. GARTH, Esq.,
Treasurer La Abra S. M. Co.:

DEAR SIR: I arrived here on the evening of the 12th inst. The steamer not having returned from Guaymas, on its return trip I had to.

I succeeded in recovering the bullion which the authorities here took from Col. De L., by the payment to the different government officers and getting it aboard steamer of the sum of \$247.00. I had either to pay the amount mentioned, or allow them to retain the silver, its value being much more—there being a large percentage of gold in it. I would, as a business transaction, have bought it back from them. Aside from this, my desire to get it to N. Y. in its present state, and the probability of its being of much value to you, these motives induced the expenditure in its recovery. I have it shipped by Wells, Fargo & Co.; valuation I gave \$300. Expenses \$15, to be paid in N. Y.

Since being here I have bought lightly of dry goods and groceries. My supply for the rainy season will be enough, provided we work a limited number of hands. Not knowing what may be your intention in reference to working the mines, whether with a large or small force, induced me to be on the safe side, and to make my purchases as small as possible.

A day previous to my leaving Tayoltita, I spent a day at the mines. While at the La Abra I picked up two or three pieces of ore, which was then being taken out. Made no selection. The evening before leaving the hacienda for this port, I assayed the several pieces. The assay was better than previous assays of any ore on the patio, giving me \$178 in silver and a large percentage in gold. It being very late in the day before I got through melting down, was unable to get an accurate gold value.

The labor from which this ore was taken is improving and the vein widening ever since it was first started on. In my next I can give you a more correct idea of the La Abra metal, as by that time the different labores, which are now being worked, will have undergone a better test.

The screens arrived by last steamer. I will start the mill—working the Cristo ore—or if that will not pay, will work the ore that does as soon as I get back. I leave this afternoon for the mines.

No news here of importance. Mazatlan dull. Weather oppressively hot. It is said the rainy season will commence earlier than usual, probably by end of June. Please forward the inclosed letters.

Kind regards to friends.

Respectfully,

C. H. EXALL.

MAZATLAN, June 13, 1867.

W. C. RALLSTON, Esq.,
Cashier Bank of California, San Francisco:

Inclosed please find my draft in favor of Bank of California, and on D. J. Garth, New street, New York, for three thousand dollars, which you will please negotiate, and place proceeds, with current rate of exchange, to my credit.

Unless the house which we do business with here, Echenique, Peña & Co., is in need of money on San Francisco (which is not the case this steamer), I find it difficult to dispose of individual drafts.

By next steamer you will much oblige me by sending me, care of Echenique, Peña & Co., of this place, a letter of credit or of deposit, or some paper which I can negotiate, in sums of one thousand dollars each, to cover the amount I draw for.

Colonel de Lagnel informed me by May steamer that when going through San Francisco he called upon you, and what moneys he had with you, had them transferred to my credit. Please let me hear from you by next steamer, and oblige,

Yr. obt. svt.,

C. H. EXALL,
Actg. Sup. La Abra M. Co.

MAZATLAN, June 11th, 1867.

D. J. GARTH, Esq.,
Treasurer La Abra S. M. Co.:

DEAR SIR: I avail myself of an unexpected opportunity to send a letter through direct; can only write a few lines, as the party who takes my letter is now in waiting. I am down buying supplies for the rainy season; will await the arrival of steamer from San Francisco; she is expected to-morrow. Everything at the hacienda is getting on as well as can be expected. I will, of course, write you more fully by steamer. My principal reason for writing now is to inform you that I will be compelled to draw on you by this steamer for three thousand (\$3,000) dollars.

The steamer will leave this port for S. Fco. on the 27th, and will reach San Francisco about 4th or 5th of July. I will draw through B'k of Cal. I am compelled to have funds to lay in supplies; have not enough on hand to do so.

Hoping this will not inconvenience you, I remain, respectfully,

C. H. EXALL,
Actg. Sup. L. A. S. M. Co.

TAYOLTITA, Julio 11th de 1867.

Al Sr Jefe Político de San Dimas:

MUY SR MIO: Su carta de el 10 del corriente fue recibido ayer tarde. Y segun sus contenidos yo no pensaba que guadaba respuesto y no tenia intencion de contestarle.

Está mañana fue avisado que el respuesto era esparaba por V. SR. Y en respetto á el compromiso de que hablaba V. era hecho cuando estubo en Mazatlan, tenia fuerza hasta que yo volviera y entonces yo pudiera tratar con V. lo mejor que podia y en cuanto si V. hubiera tomado conocimiento de las circun stancias y causas que causaba el paralización del los trabajos.

Mejores sentivos le hubiera mostrada á V. que posible á hacer diferente.

He ofrecido á los operarios toda las menas á partido por carga y algunos esta ya trabajando y diciendo que con este adamos entendido amistosamente sobre este asunto.

Sin mas, soy su affectemo. serrador,

CHARLES H. EXALL,
Admstr. La Abra S. M. Co.

[Translation.]

252

TAYOLTITA, July 11, 1867.

TO THE POLITICAL CHIEF OF SAN DIMAS:

DEAR SIR: Your letter of the 10th instant was received last evening, and from its contents I thought that no answer was expected, and I had no intention to reply to it. This morning I was advised that the answer was expected by you. In respect to the compromise of which you spoke, it was made while I was in Mazatlan, to last until I should return, and then I was to arrange with you as best I could. And if you had known the circumstances and causes which led to the paralyzation of the works it would have been apparent to you that it was not possible to do otherwise. I have offered to the operatives all the mines, to be worked on shares by the carga, and some are already at work, and desiring that with this there may be the most friendly understanding about the affair, I am, your most humble servant,

CHARLES H. EXALL,
Supt. La Abra S. M. Co.

73 *Statement of the cash receipts and expenditure at the hacienda de La Abra Tayoltita in the month of April, 1867.*

| | |
|--|--------------------|
| Rec'd from J. A. de Lagnel in Tayoltita..... | \$171. 73 |
| " " " " Mazatlan..... | 7, 434. 88 |
| " Cash sales during month..... | 82. 98 |
| " W. S. Durkee..... | 2. 00 |
| " Guadp'l S. M. Co..... | 43. 92 |
| " Expenses from W. S. Durkee..... | 10. 00 |
| " J. G. Edgar..... | 3. 81 |
| | <hr/> \$7, 749. 33 |

Statement of the cash receipts and expenditures, etc —Continued.

| 74 | | EXPENDITURE. | |
|--|---|--------------|-------------|
| Paid house expenses..... | | | \$28.67 |
| " | Echenique, Peña & Co., for md'ce | \$1, 125.53 | |
| " | J. E. Moller & Co..... | 534.31 | |
| " | C. H. Exall on %..... | 871.86 | |
| " | A. B. Elder, bal'ce to 1st Ap'l..... | 326.48 | |
| " | J. J. Skinker on %..... | 38.09 | |
| | | | 2, 896.37 |
| Machinery and building: | | | |
| Paid memorias during mo..... | | 75.20 | |
| " | B. Romero % lumber..... | 6.00 | |
| | | | 81.90 |
| Expense % paid for refg. silver..... | | 6.75 | |
| " | for recovering money taken from De L..... | 237.66 | |
| " | trip to Mazatlan..... | 76.37 | |
| " | postages..... | 6.45 | |
| | | | 327.23 |
| Dan'l Sullivan, bal'nce in full to 30th April..... | | | 53.55 |
| Store % for balances and brooms..... | | | 3.56 |
| Guadalupe S. M. Co., for balance..... | | | 10.13 |
| La Luz mine m's during mo..... | | 84.13 | |
| " | freight on ore..... | 15.13 | |
| | | | 99.26 |
| "Abra" Do memo. during month..... | | | 143.52 |
| N. A. Sloan, p'd on %..... | | | 47.25 |
| Geo. Cullins, " "..... | | | 4.00 |
| Maiz % " M. Avalos..... | | | 11.19 |
| Mdse. % p'd Huerta ft. on Panocha..... | | 8.10 | |
| " | Sandoval do..... | 146.00 | |
| " | diff'nce in exchange..... | .88 | |
| " | for meats, etc..... | 52.25 | |
| " | R. Emerson..... | 1.50 | |
| " | bill of medicines..... | 5.50 | |
| " | Echenique, Peña & Co..... | 9.50 | |
| " | " " for Laros..... | 2.50 | |
| " | Bargero, corn, beef, and onions..... | 68.35 | |
| " | difference in corn..... | .66 | |
| " | duties on goods from Mazatl'n..... | 3.13 | |
| " | Ygno. Zorozteza, for candles..... | 18.88 | |
| " | F. Rosas, for corn..... | 40.25 | |
| | | | 353.54 |
| | | | \$4, 059.37 |
| Balance on hand carried to May..... | | | \$3, 689.95 |
| In Tayoltita..... | | 1, 181.36 | |
| " Mazatlan with Echenique, Peña & Co..... | | 2, 508.59 | |
| | | | \$3, 689.95 |

Statement of the cash receipts and expenditures of the hacienda of La Abra in Tayoltita, for the month of May, 1867.

| | |
|---------------------------------------|-------------|
| Balance on hand brot. from April..... | \$3, 689.95 |
| Cash sales during the month..... | 103.60 |
| | \$3, 793.55 |

EXPENDITURES.

| | |
|---|---------|
| Mdse. act. pd. Crisanta Huerta, for corn..... | \$34.37 |
| " Duties on, case cigarros..... | 27.25 |
| " Pedro Egeda, for corn..... | 36.00 |
| " Ascencion Velazquez, for corn..... | 29.10 |
| " L. Manuelos, " "..... | 19.25 |
| " Y. Manuelos, " "..... | 18.56 |
| " V. Calderon, " chilo..... | 42.40 |
| " Crispin Rubio, " corn..... | 21.31 |
| " Behrendt & Co., boots and shoes..... | 47.50 |
| " H. Bartning & Co., dry goods..... | 20.00 |
| " J. Heymann & Co., " "..... | 1.88 |
| " J. Redo, " "..... | 19.68 |
| 75 " J. R. Moller & Co., dry goods..... | 10.50 |

Statement of the cash receipts and expenditures, etc.—Continued.

| | | |
|--|----------|------------|
| Mdco. act. pd. Careaga & Co. " " | \$145.62 | |
| " " Ammarin, medicines..... | 19.88 | |
| " " Coles, bill storage..... | 3.25 | |
| " " For belts and hat..... | 7.25 | |
| " " Juan Salazar, for corn..... | 45.23 | |
| " " Duties on goods from Masatlan..... | 30.00 | |
| " " J. M. Sanchez, for onions..... | 20.40 | |
| " " Jesus Mayorga, for dried beef..... | 25.25 | |
| " " Jesus Velasquez, " corn..... | 24.13 | |
| " " Cristino Medina, " "..... | 24.19 | |
| " " C. Balverde, " "..... | 49.96 | |
| | | \$733.90 |
| House exps. paid for beef, vegetables, and servants..... | 26.56 | |
| La Abra mine, " memorias during month..... | 170.98 | |
| La Luz mine, " " "..... | 101.86 | |
| Mach. and building, " " "..... | 101.69 | |
| C. H. Exall..... | 175.81 | |
| Wm. Carr..... | .32 | |
| John J. Skinner..... | 186.38 | |
| Expense % pd. for shipt. silver..... | 9.50 | |
| " " postages..... | 2.50 | |
| Remitted Well & Co..... | 51.75 | |
| Pd. exps. trip to Masatlan..... | 56.59 | |
| " " Correo from San Dimas..... | .25 | |
| | | 120.59 |
| Geo. Cullins..... | 15.00 | |
| Jas. Granger..... | 241.50 | |
| A. O. Sloan..... | 1.50 | |
| A. B. Elder..... | 22.50 | |
| Mdco. % pd. M. Abalos..... | 9.50 | |
| " " Julian Lases..... | 12.50 | |
| " " For lasos and blankets..... | 6.00 | |
| " " Exps. on road to and from Masatlan.... | 51.50 | |
| | | 79.50 |
| Mill % remitted H. J. Booth & Co., for screens..... | 33.07 | |
| Paid freight on "..... | 3.50 | |
| | | 36.57 |
| V. Sandoval, on %..... | 8.00 | |
| | | \$1,842.64 |
| Balance on hand carr'd to June..... | | 1,950.89 |
| In Tayoltita..... | 1,869.80 | |
| " " Masatlan, with Echenique, Peña & Co..... | 81.09 | |
| | | 1,950.89 |

Statement of the receipts and expenditures at the hacienda of La Abra in Tayoltita for the month of June, 1867.

| | | |
|--|------------|------------|
| Balance on hand from May..... | \$1,950.89 | |
| Cash sales during month..... | 118.47 | |
| J. G. Rice..... | 10.00 | |
| | | 128.47 |
| Borrowed from Echenique, Peña & Co. (for which we pay 1 % a month) | 1,252.94 | |
| | | \$3,332.30 |

EXPENDITURES.

| | | |
|--|--------|------|
| Paid C. H. Exall..... | 21.44 | |
| " " Jas. Granger..... | 27.96 | |
| " " house exp's beef, vegetable, and servants..... | 23.62 | |
| Mule % paid M. Abalos..... | 3.97 | |
| La Abra mine " memorias during month..... | 86.71 | |
| La Luz " " "..... | 65.00 | |
| El Arryan " " "..... | 9.38 | |
| Machinery and building " " "..... | 49.56 | |
| El Cristo mine " " "..... | 11.72 | |
| Mill % mozo to San Dimas..... | \$1.00 | |
| for making bags..... | .50 | |
| A. Lechaya..... | 6.88 | |
| M. Contreras..... | 1.50 | |
| | | 9.88 |

Statement of the cash receipts and expenditures, etc.—Continued.

| | | | |
|----|---|---------|----------|
| 76 | John J. Skinker..... | | \$34.75 |
| | Expense % trip to Mazatlan..... | \$74.75 | |
| | Postages..... | 2.94 | |
| | Belt lost containing..... | 10.00 | |
| | | | 87.69 |
| | A. B. Elder..... | | 21.00 |
| | R. Fonseca, pd bal'ce due for lime..... | | 70.75 |
| | Mdse. % | | |
| | " mozo to Gill Osorio..... | 1.50 | |
| | " Miguel Vega for corn..... | 20.21 | |
| | " Ascensio Baron..... | 56.25 | |
| | " F. Romero for garoansas..... | 10.69 | |
| | " S. Manjares " hides..... | 65.00 | |
| | " for cutting guaraches..... | .62 | |
| | " Gil Osorio for fr. from Mazatlan..... | 100.00 | |
| | " Harper & Co. for solder..... | 3.75 | |
| | " G. Roch & Co. " dry goods..... | 328.00 | |
| | " R. Sestier & Co., " "..... | 14.23 | |
| | " Redo Hernandez & Co., " "..... | 299.08 | |
| | " J. Heymann & Co., " "..... | 12.75 | |
| | " E. Neumann, " "..... | 16.90 | |
| | " J. R. Moller & Co., " "..... | 34.04 | |
| | " Behrendt & Co., " "..... | 9.00 | |
| | " A. F. Stockfleth for powder..... | 10.59 | |
| | " duties on goods from Mazatlan..... | 79.66 | |
| | " baker..... | 15.00 | |
| | | | 1,075.27 |
| | | | 1,598.72 |
| | Bal'ce on hand in Tayoltita..... | | 1,733.58 |

Statement of the indebtedness of the hacienda de La Abra in Tayoltita on 1st July, 1867.

| | | | |
|---------|--|----------|------------|
| 1867. | | | |
| July 1. | There was due to employes as follows: | | |
| | A. O. Sloan, miner..... | \$446.25 | |
| | A. B. Elder in charge of mill..... | 181.01 | |
| | John J. Skinker 2nd " " "..... | 78.15 | |
| | Wm. Carr, mason..... | 217.90 | |
| | Jas. Granger, bookkeeper..... | 84.65 | |
| | J. Carson, watchman..... | 22.50 | |
| | | | 1,070.46 |
| | C. Sandoval, for charcoal deliv'd..... | | 46.59 |
| | Echenique, Pena & Co., for money borrowed (bearing int't @ | | |
| | 12 % per ann.)..... | 1,252.94 | |
| | " " " bill mdse., 14 May due 14 Sept..... | 264.38 | |
| | " " " " " 6 June " 6 Octr..... | 577.38 | |
| | | | 2,094.70 |
| | Total..... | | \$3,211.75 |

HACIENDA LA ABRA, July 13th, 1867.

D. J. GARTH, Esq.,

Treasurer La Abra S. M. Co., 18 New street, N. Y.:

DEAR SIR: The letters and papers sent by Sr. Molina were received at the hacienda on the 1st of the month. I had been advised by one of the members of the house of E. P. & Co. of the movements of Sr. M.; of his meeting with you, &c. Thinking that you would not let so good an opportunity escape to send letters out, I sent a mozo down to meet the steamer Colon (a small affair owned by Echequan & Co., which was sent over to Acapulco to meet str. from Panama, and bring Sr. M. to Mazatlan). Thus it was that I got your letters at such an early date. As Col. de L. had arrived, and of course given you a minute and detailed ac't of affairs here, I can't say that the contents of your letter surprised me much. I am sorry that Col. de L.'s draft could not be paid, as its being protested I fear will injure the interests of the co. both in Mazatlan and San Francisco. All your previous letters to me were to follow out the instructions given to Col. de L. I took charge of affairs at a time when the expenditure of money was absolutely necessary to purchase supplies for the rainy season. Col. de L. left me with only moderate means to buy these various supplies; pay't of sundry bills which were coming due, and pay of the workmen

who had accounts of three, four, and six months' standing. (As I had the money in Mazatlan, deposited with E. P. & Co., and getting nothing for it, I settled up all time bills, getting a discount.) After these various amounts were considered, I saw that it was impossible to meet all obligations and have a sufficient surplus to keep me in operation during the rainy season, as it was absolutely necessary to have at the hacienda from — to fifteen hundred dollars. Under these circumstances I drew on you through B'k of Cal. for \$3,000. E. P. & Co., who have always bought Col. de L.'s drafts on you, did not want money on San Fco; I found it impossible to sell it to other houses, so sent it to Mr. Ralston, cashier B'k of Cal., with request to send me negotiable paper for —. This paper I could, of course, easily dispose of anywhere. On the strength of this draft I bought my goods, my bill at E. P. & Co.'s amounting to \$577.38, 4 mos. The other bills, amounting to \$728.34, I bought for cash, which E. P. & Co. settled. In addition to this I borrowed \$500 cash to take with me to the hacienda. Before leaving Mazatlan I made other purchases, making the whole amount which E. P. & Co. settled for me (including the \$500 borrowed), \$1,252.94 cash. This cash was lent and paid for me on my promise of payment by return steamer, which is the one now coming. I informed you by an early opportunity of my intention to draw. I had not then heard from you in reference to Col. de L.'s draft; did not know it had been protested, which, if I had known, I certainly would not have drawn. My draft will, of course, be returned by coming steamer. I wrote you fully when I was down last, informing you of my doings.

When I received your letter by Sr. M. I was working the Abra, Cristo, Luz, and Arryan, a small force in each. Seeing the decided manner in which all further aid for the present was refused and the injunction to cut down all expenses, necessitated my stopping off the whole force from the mines. As I had only a short time previous reduced the cash payment from $\frac{1}{2}$ to — (which occasioned a stop for 8 or 10 days, which I was glad of, as it was so much clear gain, and a little spat with the officials which was gotten through without much trouble), I thought it best not to stop off immediately, but prepare the miners for the change. I let them work on one week longer, and during that week informed them of my intentions. They said nothing offensive, but of course were disappointed, as it would be a bad time for them to be without work in the rainy season. Since stopping off we have been trying to make arrangements with the men to work by shares and by the cargo. I have succeeded in getting four miners to work by the cargo. They are working in the Arryan, and getting out some good metal. I hope to be able to keep them there; by doing so it will secure the mine in every way. Four miners is all I had there before. Mr. Cullins thinks that in a short time he will be able to get more men at work in the other mines. We can do better with them when they are a little hungry.

Working in this way is much better and attended with the least expense. They are provisioned for a week and charged with what they get. What metal they get out is assayed; if it assays an amount worth working (we pay them in goods a little money now and then), about $\frac{1}{2}$ its assay value. They, of course, will get out nothing but good metal, if it can be found. You see, in this way we get the metal out free of cost, buy it at one-half its value, pay in goods, and make a handsome profit on them. As long as the men will work in this way (which they will not do unless they get good metal) it will be our best way of working the mines. We must not expect them to get out any amount, but what is gotten out in this way will pay for packing down from the mountains. If I am not able to get men in the other mines I am privileged by the mining laws of the country to stop working in mines 4 months in the twelve. As these mines have been steadily worked over a year, I can safely take advantage of the privilege.

Mr. Stone, who no doubt Col. de L. has spoken of, is now out of employment. He will remain here for a time. I can give him something to do now and then. I am sorry such is the case, as he is a good man in his position, and if the co. continues work it would be well to keep him. Mr. Carr, the mason, Dan'l Sullivan, both of which I have gotten rid of, in fact have reduced the force down to the lowest point.

SUNDAY 14.

Since the first of July I have been running the mill day and night, being thrown on my own resources and having no way to get money except from the metal.

The returns from the mill I will not be able to get for some days. I have had the mill cleaned up and everything in shape of metal put in vaso to be melted. In the morning I start for Durango with what bullion I may have. I should like to be able to give you results, but will not be able to do so, as the metal will not be out of the vaso before late at night. I start thus early for Durango, hoping to be able to get back in time to go to Mazatlan to meet steamer. What returns I get for the little silver I will turn over to E. P. and Co. I hope to be able to get along for a time at least without assistance, but if it can be gotten I would to know, for fear I will not be able to keep things with what little I have or may be able to get from the ore.

The letter you seem so desirous for me to answer has not yet arrived. I expect it by next steamer; will answer it if I get down in time.

The rainy season has set in, although a very mild one so far; we had no rain of consequence until 3d or 4th of this month; the river is just high enough to notice it. Our dam holds good yet, but much of a rise in the river will sweep it away. The ditch at the upper end has been for some days overflowing; I fear before the season is through that it will be nearly destroyed, or at least rendered useless, until heavy repairs are made. It is a poor piece of work.

The officials are getting daily more troublesome; their demands are all foolish and very unjust, but we have to do the best we can with them and take things as quietly as possible.

Inclosed you have a full statement of the cash transactions; I had it made out as clearly as possible.

I have just gotten out of bed, having been confined to it nearly all day with severe attack of ague and fever; feel very weak. We have all been more or less sick this season; some one of us down nearly all the time.

I will send this down to M. to be mailed. If possible for me to get from Durango in time to go down to meet the steamer I will write you further.

Mr. Cullins joins me in best regards, etc.

Respectfully,

CHARLES H. EXALL.

HACIENDA LA ABRA, July 14, 1867.

J. G. RICE, Esq.:

DEAR SIR: Your note (P. O. whenever he may be found) is just to hand, and I hasten to answer, as I wish to send a mozo to S. D. in time for him to return before night. There was one or two requests I wished to make in the note sent by Skinker, but he was in such a fidget to get off, hadn't the time.

Will you need the rubber overcoat you loaned me when last at San D.? If not, I should like to borrow it; otherwise I will send it over. Don't fail to send by mozo the rifle, with balls and powder-flask.

I expect and hope to be able to get off for Durango in the morning; have made arrangements accordingly. Your silver I, of course, will take charge of with pleasure, and transact any business you may desire, provided I can.

8½ a. m. and vaso built, but not sufficiently dry to commence operations. I will have to push things a little.

My intention is to return from Durango in to go to Mazatlan before the steamer leaves, but fear I may be miscalculating. I will go to M. at all events, steamer or no steamer. I will write my letters and send them down to E., P. & Co., with instructions to keep them until last moment before mailing. As I may get down before str. leaves I will send my letters down either by J. G. Rice, esq., or D. Juan Corral, if I can be accommodated. Is there any one in Durango I can get who will or can give me value of bullion? What is paid for bullion at mint per marc? I feel very unwell this morning, hardly able to write.

Yours, truly,

CHARLES H. EXALL.

MAZATLAN, August 5, 1867.

D. J. GARTH, Esq.,

Treasurer of La Abra S. M. Co., 18 New Street, New York:

DEAR SIR: I am just in receipt of yours of 10 and 20 of May and 10 of June. I wrote you from Hacienda a day previous to my departure for Durango. I was the day before quite sick with chill and fever, and at the time of writing very unwell; fear my letter was very imperfect and unsatisfactory, which please excuse.

The trip to Durango consumed 11 days. The weather severe and roads rough. I enclose statement with remarks. When I returned from Durango I learned that the second day after my leaving the river had swollen to such an extent that it carried away a considerable portion of the dam, and a portion of the ditch adjoining the dam. Also, the immense rush of water down the arroyo had done considerable damage to ditch, overflowing it and washing a large quantity of dirt in it. This mishap occasioned the stoppage of the mill. The ditch was cleaned out, and as the water in the river was too high to do anything to the dam, had to get water from arroyo, which is sufficient to keep the mill in operation, and I hope it will last during the rainy season.

79 This occurrence kept the mill idle for 8 days. The mill is now running on the same ore as I last worked. This run will finish it, and what ore to work then I know not. There is, of course, some little good ore in the great heaps on the patio,

but it will have to be closely assorted, and the greater portion requires roasting, which is a slow operation and costly. I will, at any, rate, do my best. I am now working 23 men by cargo; pay them not over \$1 per week in cash. I must give them some little money. These are working in the Arryan and on the dump of the Roserio. The Cristo is now idle; also La Luz and Abra. I can get no metal from them which will pay.

The Cristo & La Luz, which have been worked for over a year, I am privileged to stop for 4 months. The Abra I must work; will put in some men; see what can be found. No further prorogues will be given, and although I have no fear of any one denouncing the mines, I must not leave unprotected. The ore which is now being gotten out will average pr. assays about \$75 per ton, but it comes in small quantities. The return I brought from mint I brought down to E., P. & Co., to settle money borrowed from them to buy goods; their bills will be due next month, and most of returns from present run will have to be paid then. I hope to be able to settle up all the indebtedness of the Co., both here and at the mines. E., P. & Co. are the only ones I am owing here. Col. De L.'s draft was presented me here on yesterday. I told them I could do nothing. My draft, which I spoke of in my last, was returned. Please inform me what can or will be done. I can't see very far ahead in money matters; can count on nothing positive from the ores now on hand. I leave to-morrow for the mines. All have been frequently quite sick. I manage to keep up better than the rest. Hoping that this and my last together will give you the information you require,

I remain, respectfully,

CHARLES H. EXALL,
Act'g Supt. La Abra S. M. Co.

Statement of run of mill from 27 May to 13 July, inclusive.

| | | |
|--|------------|------------|
| Amount of rock crushed, 89 tons 1,676 lbs., producing 131 marcos 5 oz. refined silver, yielding at mint..... | \$1,672.29 | |
| Less mint exps..... | 146.47 | |
| | | \$1,525.82 |
| Cost of chemicals..... | 665.81 | |
| labor..... | 390.54 | |
| wood, 95 varas, 62 ¹ / ₂ | 59.38 | |
| | | 1,105.73 |
| | | 420.09 |

During the above time the mill was stopped for 3 days to enlarge pulleys to settlers; by enlarging these pulleys, it gives greater rapidity and its working is greatly improved. Three days, from 10 to 13 July, were consumed in cleaning up. After 7th June there was not water enough to run both battery and pans (at this season, a month previous to the rainy season, the water in the river is very low), which, of course, reduces the capacity of the mill just one-half.

The mill works well—the battery particularly so. The great objection to the whole arrangement is its having been put too low down in the ground, thereby losing a fall of at least eight feet, which, if we had, would be of the greatest advantage, as we then could put sluices wherever they were needed; run the crushed ore to any part of the mill or patio. It would also enable us to save the tailings which we now lose.

The ore mentioned in statement above is from Cristo mine, which is of the lot Col. De Lagnel worked a little of. The assays which were made from samples taken from battery sluice, and which were made daily, vary in value; the greater number gave \$13.50 per ton (silver); some others went \$20, and again \$22.50, but none over. The ore at the bottom of the pile seemed a little better than that on top.

I have worked none other than the Cristo ore, and lot; in this lot there is a little over saving the tailings, it will have and can be done (by going to a further expense). find ore which will justify saving the tailings. The ore I am at present working on does not yield sufficient to justify my going to the expense of saving the tailings.

I have built a much larger battery tank, which catches all that wastes from the battery, which before was to a great extent lost; this I work over. The oven, which has been completed, I have not yet used, as I have worked no metal which required roasting.

The boiler is a very indifferent one, very old style, and consumes a great amount of fuel, but answers its purpose.

80 The yield from the 89 tons in statement is small and the time great when we compare results, expenses, &c., but take into consideration that ore of ten times the value of this would require a no greater expenditure, no greater cost to

work, &c. I am at present working same ore; will send a like statement at the end of the run, or when the ore is exhausted.

CHARLES H. EXALL.

MAZATLAN, MO. Aug. 5, 1867.

Sor. D. MACARIO OLVERA,
Jefe Político del partido de San Dimas:

DEAR SIR: I, this morning, received notification from Sor. D. Guadalupe Soto that it was necessary that I should present at your office in San Dimas, for your examination, the various titles of the mines owned by the La Abra S. M. Co. I hereby beg leave to inform you that the different titles required are at the office of the company in the city of New York, and if you deem it necessary I will write on for them by the earliest opportunity, or, as the titles are of course recorded in city of Durango, will, when I next visit that point (which will be in a few days), get a written statement to that effect.

Awaiting your commands in reference to what course I must pursue,
I remain, dear sir, your ob't s't,

CHARLES H. EXALL,
Act'g Supt. La Abra S. M. Co.

TAYOLITITA, Sept. 9th, 1867.

MAZATLAN, MO., Oct. 6, 1867.

D. J. GARTH, Esqr.,
Treasurer La Abra S. M. Co., 18 New Street, N. Y.:

By this steamer I am in receipt of yours of 10 and 20 of July and 10 of Aug. I was much disappointed that my urgent demands for money was not favorably answered. I have complied with the requests in your various letters in reference to giving you exact information concerning affairs here. I now have to urge you to send me means. I have heretofore been keeping above water by using the stock which I fortunately had on hand; that is now entirely exhausted. I have neith. money, stock, or credit. This latter I would not use even if I had it, as in this country it is an individual obligation and no co. affair. Now, you must either prepare to lose your property here or send me money to hold it (and that speedily) and pay off debts of the concern. I have worked as economically as possible and have cut down expenses to the lowest point. Mr. Cullins speaks of leaving in a short time. Mr. Slone is still here, but doing nothing; he is awaiting news from the co., expecting that they may decide to run the tunnel, when he would be able to get employment.

If Mr. Cullins leaves I don't think that I will employ any one else. Mr. Slone I should like to retain, but as I am unable to give any guarantee for the payment of wages, fear to do so; am owing him and the others; these payments must be made. I am working the mines with as few hands as possible. What little good metal is taken out amounts to almost nothing.

The \$5,000 draft of De Lagnel's was sent to a house in this place to be collected, with instructions to seize the property in case it was not paid. It troubled me a great deal, and I had much difficulty in warding it off. The concern to whom the draft was sent showed me his instructions and also the original draft. Fortunately for the co. there was a flaw in the draft; De Lagnel failed to sign his position as supt. La A. S. M. Co.; simply signed his name, making it an individual affair. This was the only thing that kept them from seizing the property. I told them they could do nothing with the property here, as the comp'y were not obligated on the draft. I have exhausted all the ore that I had on hand that was worth working. That which I worked was very poor and the yield small. The La Luz, on the patio, won't pay to throw it in the river. I have had numerous assays made from all parts of each pile; the returns won't pay. Amparas are not now granted, and mines are to be held only by working.

I am compelled to keep men in mines which yield nothing, merely to hold them. This I can do no longer, as I have nothing to give the men for their labor, and must now take the chances and leave the mines unprotected.

You ask for boundaries of mines, hacienda, &c. On this point I can give you no information, as these matters are, of course, to be found in the original titles, and I have no papers in reference to it. Recently the Government has ordered that all holders and workers of mines must present to the authorities the title deeds of said mines. The prefect in San Dimas sent for the titles of the La Abra Co.'s mines. I informed him that they were in New Y. He gave me four months to produce them. One month

81 of the time has passed. So you will please send immediately all the titles to the mines, or certified copies of them. They must be here in the specified time. By last steamer I sent you full statement of business of hacienda; the runnings, returns and expenses of the mill, % of ore, &c. I neglected to add 40 tons of tierras, which were run through and have been in statement sent, but was overlooked. I am sorry

not to be able to send you statements of the months since. On my return from Durango I stopped at the hacienda so short a time before starting for this point that it was impossible for me to make it up in time for this mail.

By next steamer will send you full statements of past months. The returns from Durango were small. I turned it over to E. P. & Co., as I was owing them. There is no difficulties about authorities, boundaries, or anything else concerning the mines & hacienda, provided there is money in hand, & money must be sent. I hope I have urged this point sufficiently so that you may see fit to send me something to hold the mines. I should be sorry to see them lost on this account. Please telegraph me if you intend sending money? I fear that before I can get a reply to this that something may have occurred. Of course, Col. De Lagnel informed you the conditions & terms on which I took charge of affairs here, which was the same that he was getting, & if I had known at the time what difficulties I was going to have in procuring means to keep the concern in motion, I would have refused on any terms.

I am much in need of money, as I wish to use it here. I will, in a month or so, draw on you through Wells, Fargo & Co., San Francisco, for \$1,500—please inform me by earliest opportunity that you will meet the draft.

My health is very bad & fear is much injured since being here. Another summer here I could not stand. Hope you will soon send some one to relieve me. Cullins & all the others have been or are now sick. The weather has been almost melting. Please have mailed the inclosed letters.

I hope that before this reaches you that some steps will have been taken to procure means to operate with. Trusting that you are in good health, I remain,

Respectfully,

CHARLES H. EXALL,
Act. Supt. La Abra S. M. Co.

Sor D. ANTONIO ARMIENTO,

Presidente de la Diputacion de Mondria del Distrito de San Ygnacio:

El que suscribe encargado de la negociacion Americana llamada La Abra S. M. Co. estando obligado á suspender los trabajos en algunos de las minas pertenecientes de la dich negociacion—hasta que puede recibir instrucciones de la compania relativo al modo de seguir los trabajos y fondos suficientes para ello. Por estos razones pues pido con el debido respecto que se digna V. concederme un amparo por el termino de seis meses sobre la mina de Arryan incluyendo en sus pertenencias las minas del "Sans y Jalpa" todas pertenecientes á la referida compania y situados en el distrito de San Ygnacio, para que no sean denunciabiles por abandonados, protestando que pido justicia y no marla fe.

Esta escrito en papel comun por no haber aqui del sello que corresponde pero protesto reponerlo cuando haya.

Su atto. y S. S.

CHARLES H. EXALL,
Act'g Supt. La Abra S. M. Co.

[Translation.]

Mr. ANTONIO ARMIENTO,

President of the Mining Deputation of the District of San Ignacio:

The undersigned, in charge of the American negotiation, entitled La Abra Silver Mining Company, being obliged to stop the works in some of the mines belonging to said negotiation till he can receive instructions from the co. concerning the way of resuming the works and the necessary funds therefor. For these reasons I ask you, with all due respect, to be pleased to grant me an amparo for six months on the mines Anyan, including those of the Sauz and Talpa, all belonging to the said co., and located in the district of San Ignacio, in order that they may not be denounced as abandoned. And I protest to make that request justly and not in bad faith.

Not having the necessary stamped paper, this petition was written in common paper, but I protest to replace it whenever I can.

Your attentive and sincere servant,

CHARLES H. EXALL,
Acting Superintendent of La Abra S. M. Co.

TAYOLTITA, October 14th, 1867.

Sor. D. ANTONIO ARMIENTO:

MUY SEÑOR MIO: Segun sus instrucciones de Vd. le acompaño el pediminto para el amparo de las minas de Arryan, Sans y Jalpa—cuales estan todas incluidas en las mismas pertenencias; y al mismo tiempo le remito á V. seis pesos para los gastos del documento, incluyendo en ellos el papel sellado que me hace V. el favor de poner para mí, pues no hay aqui del que corresponde.

Espero que V. me remité el documento por la primera oportunidad ó á me en Tayoltita ó al ciudad del Sor. D. J. G. Rice en San Dimas.

Soy de Vd. en afmo. S. S., Q. B. S. M.,

CHARLES H. EXALL,
Asst. Supt. La Abra S. M. Co.

TAYOLTITA, Oct. 11 de 1867.

[Translation.]

Mr. ANTONIO ARMIENTO:

SIR: In compliance with your instructions, I accompany you the petition for the "amparo" of the mines of Anayan, Sauz & Talpa, all of which are included in the same dependences, and I enclose you, at the same time, six dollars for the expenses of the document, including the stamped paper, on which you will do me the favor to write the petition, as there is none here of that kind.

I hope that you will send me the document by the first opportunity, either to me at Tayoltita or to the care of Mr. D. I. G. Rice, at San Dimas.

I am your affectionate and sincere servant,

CHARLES H. EXALL,
Asst. Supt. La Abra S. M. Co.

TAYOLTITA, October 14th, 1867.

HACIENDA DE LA ABRA,
Tayoltita, 8th Nov., 1867.

D. J. GARTH, Esq., New York:

DEAR SIR: I write you by this steamer to account for your not receiving any letters from Mr. Exall, in case he has not written you from Durango.

Mr. Exall left here on the 26th ulto. with bullion for Durango, in company with Mr. Sloan and two mozos, expecting to be back by 5th inst., but regret to say they have not returned, and we have a report that the party was met by a band of robbers before going into Durango and everything taken from them (silver, mules, arms, &c.), leaving them in their underclothing to make their way into the city, about half a day's journey. We do not give full credence, as yet, to this report, but am afraid, from Mr. Exall not returning or hearing from him, it is too true.

I am yours, very respectfully,

JAS. GRANGER.

MAZATLAN, Nov. 17, 1867.

D. J. GARTH, Esq.,
Treasurer La Abra S. M. Co.:

DEAR SIR: Yours of the 30th Sept'r is just in hand, and contrary to my expectations, contains nothing of an encouraging nature. I expected, after having previously written so positively on reference to the critical state of affairs with me, that you would have sent me by *this mail* some means to relieve me from my embarrassing position. I have in former letters laid before you the difficulties under which I was laboring and begged that you would send me means, and was relying much on the present mail, expecting that some notice would have been taken of my urgent demands for assistance to protect the property belonging to the company. To add to my further embarrassment, Mr. Cullins, whose time expired on the 16th inst.—since my leaving Tayoltita—(I left there on the 10th for this point), intends to commence suit in the courts here for his year's salary. I am endeavoring to get him to delay proceedings until the arrival of the next steamer (don't know as yet if I will succeed in getting him to delay), when I hope you will have seen the necessity of acting decidedly and sending means to prosecute the works and pay off the debts of the company, or abandoning the enterprise at once. Nothing can be done without a further expenditure of money. I am now doing little or nothing in the mines, and will, when I return, discharge the few men which are now at work in them. This I am compelled to do, as I have no money, and my stock is almost entirely exhausted, and I fear if money isn't very soon sent some of the mines will become open to denouncement.

In my last letter I mentioned the amount required for immediate demands, \$3,000, which must be sent out. By next steamer Mr. Elder, Slone, & Cullins, if paid off will sail for San Francisco; if not paid off, suit will be commenced, & as I have no means to defend the case, fear it will go against me. When these parties leave, the hacienda will be left almost entirely alone, there being only myself, Mr. Granger, who I am also owing, and I away much of the time.

What you intend doing must be done promptly. Please send me Mr. Cullins' contract with you. The political state of the country just now is rather discouraging. I hope by the time this reaches you, will have rec'd statement sent. Everything at

mines is as it was when I last wrote, only more gloomy in appearance on ac't of not being able to employ the people & put things in operation. *Please do something immediately*, and inform me as speedily as possible.

Yours, most resp't'y,

CHARLES H. EXALL,
Act'g Supt. La Abra S. M. C.

Please forward inclosed letters.

MAZATLAN, M'O, Dec. 18, 1867.

D. J. GARTH, Esq.:

DEAR SIR: I arrived here a few days since. Received by steamer yours of Oct. 10, informing me of your inability to send me the means to operate with and meet my obligations. I have in previous letters expressed the condition of affairs with me, and begged that you would do something. Thus far I have been able to protect your interests here, but affairs have gotten to such a point that I am unable to do so longer without money.

Mr. Cullins, who I informed you in a former letter would leave, insisted upon doing so by this steamer. He demands a settlement, otherwise he will immediately commence suit, and had made preparations to do so. To keep the matter from the courts I was compelled to borrow money to pay him off. The balance due him, and the amount I had to borrow here, was \$1,492. He has troubled me a great deal—has been exceedingly unreasonable. On yesterday, the agt. of the B'k of Cal. informed me that he rec'd the draft by the last steamer (which arrived a few days ago), and would immediately commence legal proceedings, and sent the draft on to the courts here.

I am utterly unable to oppose them; first, I have no means, and, again, I am not your agent here, never having received a power of atty. from you, which will be necessary, for I can not act in these courts without it.

The Bank of Cal. — and will do something to recover the amount of the draft before the amount is doubled by the expenses. For God's sake telegraph to and pay them. Matters of this nature once getting in these courts it takes large sums to oppose them. The first steps taken by the courts will be to send some one to the hacienda to see to and secure everything there. This will, of course, stop everything and make it impossible for me to protect your interests. For your own sake in the matter pay them before things go further. My position is extremely embarrassing, and I know not what to do, and will have to be guided entirely by circumstances. I will, of course, do everything in my power, and may have to act in a very cautious manner, and will probably act in a manner which may occasion censure. Now, all I ask of you is to judge my actions justly, and consider my circumstances, and believe I am doing the best for your interests.

I am doing nothing at the mines, and have only one person left with me. Please attend to this matter promptly. I am writing very hurriedly as there is a war steamer just leaving for S. Francisco which will arrive there some days prior to the regular mail. I leave for the mines in a few hours. Attend to this at once and telegraph me.

I remain, your obt. sv't.,

CHARLES H. EXALL.

C. Gefe Político del Partido :

Por el presente pago formal oposicion al denuncio hecha por el C. Guadalupe Soto fecha Oct. 28 de 1867 de una sita de la hacienda antigara llamaba "Guadalupe" en el mineral de Tayoltita; siendo dicho terreno la propiedad de la compañía Americana que represento yo, y quien la adquirio per comprada del Sor. D. Angel Costillo de Valle en ultimo poseedor, y estando actualmente ocupado por dicha compañía en las necesarias operaciones de su hacienda de beneficio. El terreno en cuestion forma una parte del terreno comprado por el uso esclusivo de la referida compañía quien quiarundo usalo para otros objetos, han utilizado por medio de una maquinaria muy costosa el agua del rio en un modo mucho eficaz que antes, con facilidades abundantes para beneficiar todos los metales que se sacan en el mineral de Tayoltita. De modo que seria una injusticia á la compañía quitarle esta parte de su terreno. Ademas, hay una habitacion ocupado en el mismo terreno y por esta razon esta denunciado seno con aviso de cuatro meses, para restablecer, vender ó arrendarlo, en caso que las razones ya es-
84 puestos no son suficientes pare su completa ampara. Por tanto pido que se admita esta mi oposicion y que se anule el referido denuncio—decidiendo la cuestion lo mas pronto posible—protestando ser en justicia y no de malicia. Se suplice tambien el presente en papel comun por no haber de sello que corresponde, protestando, repouerio cuando haya.

CHARLES H. EXALL,
Admor. La Abra S. M. Co.

SAN DIMAS, November 26, 1867.

[Translation.]

CITIZEN PREFECT OF THE DISTRICT:

Herewith I make formal opposition to the denouncement made by C. Guadalupe Soto on the 28th of October, 1867, of the site of the old hacienda called Guadalupe, in the mineral of Tayoltita; said grounds being the property of the American company which I represent, and which acquired them by purchase from Señor Don Angel Castillo del Valle, their last owner, and being now occupied by said company in the necessary operations of its reduction works. The grounds in question form part of those purchased for the exclusive use of the company referred to, which, desiring to use them for other purposes, has utilized, by means of expensive machinery, the water of the river in a manner much more efficacious than hitherto, with abundant facilities to beneficiate all the metals which may be mined in the mineral of Tayoltita. It would therefore be a great injustice to the company to take from it this portion of its property. Moreover, there is an occupied house on the same ground, and for this reason it is not subject to denouncement without four months' notice to repair, sell, or rent the same, should the reasons which I have given not be sufficient for the complete protection of the company. I therefore beg that you will consider this, my opposition, and annul the denouncement referred to, deciding the question as promptly as possible, protesting in justice and not in malice. This is written on common paper, because I have not necessary paper, but will replace it when I have some.

CHARLES H. EXALL,
Administrator La Abra Silver Mining Company.

SAN DIMAS, November 28, 1867.

Sor. D. MACARIO OLVERAS,
Gefe Político, del partido de San Dimas:

DEAR SIR: I was in San Dimas on yesterday and hoped to have the pleasure of seeing you, but was disappointed, as you had not returned, and learned that you were not expected until 23 inst.; thought best to write you in regard to the denouncement of the hacienda Guadalupe by Sor. D. Guadalupe Soto, altho' I should have much preferred to have talked over the matter with you.

On last Saturday D. Guadalupe put men to work on the hacienda grounds; this I was confident he had no right to do until decision was given in his favor, on his denouncement, and he was legally put in possession. Accordingly I laid my complaint before the judge here (D. Nicanor Perez) who decided that Soto must suspend work, but afterwards I learned that he told Soto to go and work, which he did and has since continued working. This should and ought not to be. The judge says that he has heard nothing from you in reference to the matter, and nothing in reference to my opposition. Sor. D. Antozariza, gefe municipal, here on yesterday; he is an old resident of this section of the State and neighborhood, knowing intimately the former owners here, and also knowing everything in reference to the sale of the property—the two haciendas and mines. He gives it as his *opinion* that the hacienda is not denounceable, and that Soto should be ordered to stop work until the affair is settled.

Soto contends that he works by authority of an order received from you. This I was very much surprised to hear, as by the mining laws four months from the date of denouncement is given the owner, in which he may re-establish, rent, or sell, and knowing your knowledge of the laws, can not think you could have issued such an order.

Although I have no personal interest in this matter—being placed here by the company in charge of the mines haciendas—I can not allow any of them to be taken without using every lawful means in my power to retain possession of them. And in this business I demand equal and exact justice, without fear or favor, and leave the matter in your hands, with the request that you will protect me in all my legal rights and privileges.

Trusting that you will take proper and speedy steps to arrest this matter, I remain,
Your ob't s'v't,

TAYOLTITA, December 5th, 1867.

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

S. D. RAMON GURROLA,
Hacienda Santa Ana:

MUY SEÑOR MIO: Recibi su grata de Vd. y de Dn. José Rice con fecha del 9 de Dicie. y mando con el arriero Emeterio Camilo—6 frascos de Azoque que son por todos 450 libras.

Sin mas para ahora soy de Vd. su aff. y S S.

CHARLES H. EXALL,
Adm'r La Abra S. M. Co

TAYOLTITA, Dicie 10 de 1867.

[Translation.]

253 Mr. RAMON GURROLA,
Hacienda Santa Ana:

SIR: I received your favor and that of Joseph Rice, dated on the 9th of December, and I send with the muleteer, Emeterio Camilo, 6 flasks of quicksilver, weighing altogether 450 lbs.

Without any more for the present, I am your affectionate and sincere servant,

CHARLES H. EXALL,
Administrator La Abra S. M. Co.

TAYOLITTA, December 10, 1867.

34 Sr. DR. JUAN CASTILLO DE VALLE:

DEAR SIR: I take the opportunity of our mutual friend, J. G. Rice, esq., going to Durango, to write you again in case my letter of 26th Novr. should not have reached you.

In mine of 26th ulto., I wrote stating that Guadalupe Soto had denounced the hacienda de beneficio de Guadalupe on the false grounds of abandonment. At the time of the denouncement I had gone to Mazatlan on business. As soon as I returned, and heard of what had been done during my absence, I entered a formal opposition, and put it in the hands of the gefe in San Dimas (our head of legal affairs). I understand he has since forwarded it to the governor for his decision thereon. In regard to the grounds of denunciation which he took, that of abandonment, "it is false."

85 It is true we have not used the hacienda for all the operations of beneficiating metal, but use it in connection with our beneficiating works of the hacienda San Nicolas. Over the hacienda, or rather a portion of it, there is a roof in good repair, and in this part of the building there has always (and is now) been some one of the employes living.

From appearances I think the authorities are in favor of Dn. Guadalupe (or have in some way committed themselves) and if possible will give him possession, which, if done, will be doing my company *great* injustice, and going contrary to the laws of country.

The reason of the statement given above in reference to committal, is he, Soto, seems so confident of success, and in addition has a force at work daily. You know the great injury the putting up of tahonas by the above-named party would do my company, as of course, all the metal from this company's mines, and all the surrounding mines, would be stolen and taken to him, and in fact there are many other ways in which my company would suffer if he succeeds in getting possession.

Not having the titles, and not knowing whether the hacienda Guadalupe was included in the pertences of the hacienda San Nicolas, when you sold the property to my company, or whether they were sold separately—as two haciendas—I write, begging that you will give me all necessary information on this subject, and if you can in any possible way do anything with the authorities to induce them to render a decision in favor of my company, and prevent possession being given to Guadalupe Soto, you will be doing my company *great* service, and receive the thanks of

Your ob't serv't,

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

TAYOLITTA, December 5, 1867.

Sr. DR. MIGUEL LARENGA:

MUY SR. MIO Y AMIGO: He recibido su carta de V. fecha de ayer, y la de los Sres. Stozel, Bartwing & Co., y siendo mi intencion de venir por aca he deferido de escribir hasta llegar aqui.

Siento mucho que los Sres. Stozel, Bartwing y Cia. entendieron mal lo que les dije respecto áeste negocio y le han molestado á V. otra vez con el.

Dentro tres o cuatro dias espero salir para Mazatlan cuando les vere á dichos Señores y oseo poder arreglar el asunto ellos satisfactoriamente.

Soy de V. afma S. S.

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

SAN DIMAS, Enero 12 de 1868.

[Translation.]

253 Señor DON MIGUEL LARENGA:

DEAR SIR AND FRIEND: I have received your letter dated yesterday and that of Messrs. Stozel, Bartwing & Co., and as I intended to come here I have deferred my answer until my arrival.

I am very sorry that Messrs. Storzel, Bartning & Co. misunderstood what I said to them respecting this matter, and have again troubled you with it. Within three or four days I hope to set out for Mazatlan, when I shall see those gentlemen, and I believe I can arrange the matter satisfactorily with them.

I am, your most affectionate servant,

CHARLES H. EXALL,
Administrator La Abra Silver Mining Company.

SAN DIMAS, January 12, 1868.

85

SAN DIMAS, Durango, Mex., Dec. 25, 1867.

This day received of Sr. D. Miguel Larenga, a draft of five thousand dollars (\$5,000), drawn by J. A. de Lagnel on D. J. Garth, esq., New York.

Not being in any manner connected with or responsible for said draft of \$5,000, I refuse to recognize it.

Respectfully,

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

C. JEFE POLÍTICO, San Dimas, Durango:

DEAR SIR: This morning about 11 o'clock Sr. D. Gicanor Perez came into the store belonging to the hacienda, looked around, saluted us, and then walked into the store-room adjoining the store, the time I was behind the counter, and seeing him in there where no one was ever allowed without permission, I, in as polite Spanish as I was master of, requested him to come out, and after he came out I shut the store-room door. He then asked me if I thought he was a rogue and wanted to steal. I told him as well as I could, certainly not, and that the reason of my asking him out was that no one was ever allowed in there without permission. He then stated that he was there on official business, and wanted to see Matias (our —) who was at the time working in the storeroom. I immediately called Matias out, and he and the — then went outside of the store. A few minutes afterwards he returned and talked in a very excited manner, feeling himself much insulted. I told him nothing was meant by what I had said, and he left and returned to —.

At about 12½ o'clock, just as our dinner-bell had rung, a mozo brought an order from the judge, which I inclose. After we had eaten, Mr. Slone went up to see the judge. He had collected around his house a number of men, and in the house preparations had been made as if resistance was expected and force might be required. After getting into his room, I requested Mr. Slone to ask him, as I was unable to ask him myself, what was the business he wanted to see me on. He replied he had been grossly insulted, and pushed out of the store, when he was on official business. This I of course denied in a most emphatic manner, having acted only as before stated. I then told him that in requesting him to come out of the store-room I had no intention of insulting him or hurting his feelings, but was simply enforcing the rules of the hacienda in not permitting any one to go in the store-room without permission. This he would not listen to, and persisted in saying I intended to insult him. I of course did not, and, from my ignorance of the language, could not argue the point. After some time spent in talking to this effect, I asked him if he had gotten through with me, as I desired to return to the hacienda. He replied, yes, he had finished. Mr. Slone and I then left, and bid him good-by. As we reached the corridor, he said he never wanted to see me in his house, except on official business. To this I replied, "Very well, sir," and turned to leave. He called me back, saying not to go; if I did he would send a force after me, and they would shoot, and insisted on my return into the house. I did so, without any remark. He then said I was his prisoner. I then requested him to know what was to be done. He said he would put me in jail until he could receive instructions from San Dimas. I remained passive, and he then gave full license to his tongue, abusing me in the most violent language. Then and several times I repeated my statement of the occurrence in the store. To this he paid no attention, and treated me with utter contempt, and persisted in his intention of putting me in jail until he could hear from Sn. Dimas, and would listen to nothing that I might say. After being his prisoner for an hour, not being allowed to speak to any one, and being guarded, I asked if he intended putting me in jail please to do so, as I had a headache, and wished to lie down. He then gave me permission to go to the hacienda, but to consider myself still his prisoner, and at his house whenever ordered.

My dear sir, I have before given you as minute a state of events exactly as they occurred as 'tis possible to write, and from which you will see that if I have given any cause to Dn. Nicanor to imagine himself insulted, it was done ignorantly, as

nothing was further from my thoughts than insulting him or hurting his feelings in any manner, and I submit it to your judgment whether I deserved the treatment which I have been subjected to, abused and insulted, without any provocation, and have no redress left me. But for being a prisoner, I would come and see you in reference to the matter, but unfortunately necessity compels me to write.

Dn. Nicanor intends writing to San Dimas, and will of course give his version of the affair. Please act on this immediately, as I don't care to be any longer under restraint than possible.

Yours, most respectfully,

CHARLES H. EXALL,
Adm'r La S. M. Co.

TAYOLTITA, Jan'y 7, 1868.

MAZATLAN, Jan'y 24, 1868.

D. J. GARTH, Esq.,

Treasurer La Abra S. M. Co.:

DEAR SIR: I came down to meet steamer from San Francisco, in hopes of receiving letters from you; I received none, and now, being entirely out of funds and stock, and being sued by ag'ts from B'k of California for the payment, have to let things take their own course, as I am unable longer to protect your interests here. In previous letters I have given you full and detailed accounts of affairs here, and such frequent repetitions I find useless, and will simply state that I am doing nothing whatever at the mines, and can not until I receive money to operate with. I haven't means to protest now and they are liable to be denounced at any moment. Some months since I wrote you for titles; the Government demanded them; they have not been received.

By December steamer I sent you a telegram from San Francisco; no reply. The parties I sent the dispatch to in S. F'co sent it on to New York. I am owing considerable and no means of paying. What is your intention? Is it to let your interests here go to the dogs? You have either to do this or send money out to protect them. If by next steamer I receive no assistance from you, I intend leaving for the East. I will go via San Francisco, will from there telegraph you what further steps I shall take. I have been doing everything in my power to keep the Bank of Cal. from getting possession; thus far have succeeded, but can prevent them no longer, and fear they will eventually have their own way. Mr. Cullins (who is not the man he was represented to be) left by last steamer.

I have only one man with me now; am compelled to keep some one. Please 87 telegraph me in San Francisco, care of Well & Co., immediately on receipt of this. You can judge by what has been done in N. Y. and sent to me whether or not I may have left. Please let me know your intentions.

Respectfully,

CHARLES H. EXALL.

Please forward inclosed letters.

TAYOLTITA, Feb'y 26, 1868.

Mr. JAMES GRANGER:

SIR: As circumstances are of such a nature as to compel me to leave for San Francisco, and probably for New York to inquire into the intentions of this company, I place in your hands the care and charge of the affairs of the La Abra S. M. Co., together with its property.

You are invested hereby with all power confided to me, of course, acting in all your transactions with an eye to the interests of the company.

This will, to you, should occasion require it, be ample evidence of the right possessed by you to act in their behalf.

Very respectfully,

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

TAYOLTITA, 12 de Agosto de 1868.

Sor. D. REMIGO ROCHA:

MUY SEÑOR MIO: El cobro que se me hace, de \$52.50, que la corresponde pagar cada mes á esta negociacion por las contribuciones impuestas por la Legislatura del Estado la ha reconocido y la juzgo justo, pero como yo soy unicamente un encargado por estar fuera del lugar el Superintendente, y como no hay existencia de dirmo ni de efectos para poder pagar este impuesto. Suplico á V. se sirva esperarme hasta el mes de Noviembre que es cuando debe de venir dicha Superpte. y entonces seran pagados las cantidades á que deba este negocio por esta contribucion.

Su afmo S. S. Q. B. S. M.

SANTIAGO GRANGER.

[Translation.]

253

TAYOLITTA, August 12, 1868.

Señor DON REMIGIO ROCHA :

DEAR SIR : I have received the communication calling upon this company to pay \$52.50 each month for taxes imposed by the legislature of the State, and presume it to be correct ; but as I am only acting in the absence of the superintendent, and as there is no money nor effects to pay this tax, I beg you to wait until the month of November, at which time said superintendent is to come, and then the sums due by this company on account of this tax will be paid.

Your most humble servant,

SANTIAGO GRANGER.

67

ORIGINAL LETTERS OF DAVID J. GARTH OFFERED IN EVIDENCE, AND IDENTIFIED BY THE TESTIMONY OF JULIUS A. DE LAGNEL AND DAVID J. GARTH.

OFFICE OF GARTH, FISHER & HARDY, BANKERS,
18 New street, New York, May 10th, 1867.

MR. CHAS. H. EXALL,
Tayolitta, Mexico :

DEAR SIR: Our last dates from Mexico on 5th Feb'y last, when we had a letter from Col. De Lagnel, at Mazatlan, informing us that some delay had been met with in getting the water on the wheel, and consequently in getting efficiently at work in washing the ore, but that it was not serious and he hoped in a few days to have everything all right, and gave us some ground to hope for good results now very soon. From a letter rec'd by Mrs. De L. we expected that the col. would have reached here before this time, as it was thought that he would leave Mazatlan about 10th March last, and we have been awaiting further advices with much anxiety and interest. We now expect by the next steamer, now nearly due, to see Col. De Lagnel or to hear something further from him or you. In our former letters we stated that in the event of his leaving Mexico we supposed that you would take charge of affairs, since when we have given no further instructions on this point. Touching the management we have so fully given our ideas in former communications that we now have nothing more to add. We trust the dead expenses of building and machinery and preparation for work have now been long since completed and that a large amount of good ores accumulated ready for work and that before this time have been benefited and the results proved to be satisfactory. I hope arrangements can be

88 made to export the bullion, as it would be greatly to our interest to do so, instead of having to be compelled to have it coined, and so avoid loss and delay at the mints in Mexico. The affairs of the company here are much embarrassed ; a few of the directors have advanced all the money to carry on the operations and have been nearly ruined by it, and are not able to afford any further aid from here, and look anxiously to be reimbursed very soon, from the products of the mines, and it is hoped that your best energies will be exerted to afford relief. We learn that the Guadalupe Co. intend to erect a steam stamp mill and that they have made further assessments for this purpose. We have replied protesting against it and refusing to pay, under the circumstances, as we are now informed even if we had the money we should not pay any further assessments to this company. When you write next give us full accounts and your views of this matter. We wish you also to write us very fully each month, and also to furnish us with detailed monthly report and accounts of your operations, &c. I wrote you in regard to the Guarisamey property and authorized you to sell my interest in it if possible, and hope you will be able to do so.

Do write us fully about what you are doing and of the prospects of the mines, &c.

Yours, truly,

D. J. GARTH, Tr.

OFFICE OF GARTH, FISHER & HARDY, BANKERS,
18 New Street, New York, May 20, 1867.

MR. CHAS. H. EXALL, Tayolitta, Mexico :

DEAR SIR: I wrote as usual by last steamer, which left here on 11th inst. You will see that Col. De Lagnel was expected by the steamer then about due, but he failed to come, and we are yet without any advices from the mines later than 5th Feb.

ruary last, dated at Mazatlan. At that date we were advised that everything, after long delay, was about complete, and that we might soon look for good results from the enterprise, but that the supplies being exhausted, it was found absolutely necessary to draw on us for \$7,500. This draft arrived on 2d April last, and was paid by one of the directors of the company, as it was considered that it was *surely the last* that would be needed, and we expected to return the money by an early remittance of bullion from Mexico. You can judge of our surprise and chagrin, when the last steamer arrived, instead of bringing Col. De L. with some fruits of our works, a draft for \$5,000, gold, was presented for payment by Lees & Waller, drawn by De Lagnel, favor Bank California, and dated 10th April last, and of which we had not received any notice or advice whatever, and have not yet received any. As I had so often and fully advised the superintendent of the condition of affairs here and requested him not to draw further, I was much surprised that he did so, and that without giving any notice or reason for so doing. As it was found impossible to raise the means to pay this draft, it was protested and returned unpaid, and you must make some provision for its payment when it gets back. I do trust that before that date you will have plenty of means to do so. I would now again repeat that I have made every effort possible to raise money here and have failed, and I have advanced all I can possibly do, and the other directors have done the same; the stockholders will do nothing, and it is probable the company will have to be sold out and reorganized. I must again urge you to use all possible dispatch in remitting us bullion, and use the greatest possible economy in working. We wish you to give us very full and particular accounts of amount of ore on hand and amount you raise daily; the number of hands employed, cost, &c., and amount crushed, yield, &c., and the cost of beneficiating, and also a regular monthly statement of receipts and expenses. In this we earnestly insist on and hope you will not fail to do it. I expect Col. De Lagnel now daily.

With best regards, I remain, very truly, yours,

D. J. GARTH, Tr.

(Indorsed:) "D. J. Garth, May 20, '67, to C. H. E."

89

OFFICE OF GARTH, FISHER & HARDY, BANKERS,
18 New Street, New York, May 30, 1867.

MR. CHAS. H. EXALL, *Tayoltita, Mexico:*

DEAR SIR: We wrote you on 20th inst., informing you that we had nothing from you or Col. De Lagnel, but that a draft drawn by Col. De L. from Mazatlan, 10th April last, had been presented, and there being no funds on hand, and no means here of meeting it that it was protested and returned not paid; it is hoped by the time it gets back you will be prepared to meet it. Since my last letter Col. de Lagnel has arrived, and made known to us something of the state of things with you. I must confess that we are amazed at the results; it seems to be incredible that every one should have been so deceived in regard to the value of the ore, and I can but still hope that the true process of extracting the silver has not been pursued, and that before this time better results have been attained. Mr. de Lagnel expected that Mr. Sundel, of St. Dimas, would come to your aid soon after he left, and as this gentleman was said to be a practical chemist and metallurgist, he hoped some means would be discovered to get at the silver; if, however, the ores are indeed worthless, I don't see that any process of working will be of avail, and have the worst fears that our enterprise will, after all, be fruitless of good. In regard to the working of the ore, I would advise that you don't waste it by running it through the mill when you find that the yield is not satisfactory. I would suggest that you run, say 2 to 3 tons of metal through the mill and see what the results are by the pan process, and then take a like amount of same sort of metal and crush it and grind as fine as possible in the pans, and then take it to the "patio" and beneficiate it and carefully compare the results of the trials; this is what I urged long ago, and think it well to do at once. I would advise that very frequent assays be made of the ores as raised out of the mines, and take out nothing that will not certainly be rich enough to pay well for working. All expenses must be cut down to the lowest point, and you and Mr. Cullins must try and bring this enterprise into paying condition if the thing is possible—at any rate, no further aid can be rendered from here, and what you need must come from the resources you now have. Neither must you run into debt; cut down expenses to amount you can realize from the mines. I can not yet say what can be done in the future; no meeting of the stockholders has been held, and nothing done to pay off the debts here, now pressing on the company. For the present, all I can say is that the whole matter is with you; take care of the interests and property of

the company; don't get it involved in debt, and advise us fully of what you are doing. Everything here excessively depressed and dull. With best regards to Mr. Cullins and yourself,

I am, very truly, yours,

D. J. GARTH.

You must be very careful in regard to the tailings or "pulvices," and try and save them, and not let anything be wasted, for "future use."

[Endorsed—"David J. Garth. To C. H. Exall. May 30, '67."]

OFFICE OF GARTH, FISHER & HARDY, BANKERS,
18 New Street, New York, June 10, 1867.

Mr. CHAS. H. EXALL, *Tayoltita, Mexico* :

DEAR SIR: I had this pleasure on the 30th ult., sending the letter by a gentleman going direct to Mazatlan. We have not heard from you since Con. de Lagnel left Mexico, but hope that you are well and getting along as well as could be expected. The account that Col. de L. gave us of the quality of the ores on hand was most unexpected and a fearful blow to our hopes. We trust, however, that a fuller examination will show better results. We have in previous letters to you and to de Lagnel so fully informed you of the condition of affairs here that it is hardly necessary to say anything further on that subject. There is no money in the treasury, and we have no means of raising any, and a few of us have already advanced all that we can do, and you have been advised that the draft last drawn by de L., on 10th April, 90° was returned protested, and I hope you will be able to take it up when it gets back, promptly. Everything now depends upon you and to your judgment, energy, prudence, and good management of the resources in your hands, and we hope you will be able to command success.

Very respectfully and truly, yours,

D. J. GARTH, Tr.

(Endorsed :) "D. J. Garth to C. H. E.," June 10, '67.

OFFICE OF GARTH, FISHER & HARDY, BANKERS,
18 New Street, New York, July 10, 1867,
(Care Echenique, Pena & Co., Mazatlan.)

Mr. CHAS. H. EXALL, *Tayoltita, Mexico* :

DEAR SIR: I had this pleasure on 30th May and 10th June last, after the return of Colonel de Lagnel, and we had learned something of the condition of affairs in Mexico. In these, as well as in preceding letters, you were fully advised of the condition of the company here; that there had been no funds in the treasury for a long time; that appeals had been made in vain for aid to the stockholders, and that the parties here who had made heavy advances to the company were anxious for its return, and refused to make any further payments; and that the draft for \$5,000 drawn on me as treasurer by Colonel de Lagnel, on 10th April last, had been protested and returned to California, and, we suppose, to parties in Mazatlan who advanced the money on it, and who would have to look to you for payment of same; and we expressed the hope that by that time you would have taken out sufficient money to meet it and all other expenses, and hoped soon to have a remittance of bullion from you to aid in payment of the large indebtedness here. We have since received your letters of the 6th May, from the mines, and 17th May, from Mazatlan. We are also in receipt of the sample of bullion sent at same time by express, the value of which is not yet ascertained, having not yet been able to get it from the assay office, but hope to do so to-morrow. I fear, however, that it is worth but little more than what it cost to get it from the custom-house in Mazatlan and the expenses on it here. I am glad to hear that you are taking out rich metal and hope it will turn out valuable. It seems almost incredible that all parties should have been so mistaken in the value of the ore now on the "patio," and I don't see how it is that Mr. Cullins and Mr. Sloan, old and experienced miners as they are, as well as the old Mexican miners, should have been so deceived as to the value of the ore. If it so much resembles rich metal, I don't see how you can tell the good from the worthless except by actual fire assays. You should make these very often, and not go on and get out large quantities of worthless ore at great expense, thinking all the time it was rich metal. You will see, from all my letters that no further aid can be given you from here, and that you must rely upon the re-

sources you now have, and which, we think, ought to be ample to pay off the debts and to sustain you in current expenses, which you should cut down to the lowest possible point. I can but think that in the vast quantities of ores now on the grounds of the hacienda, there must be a considerable am't of rich metal, and which you should beneficiate as soon as possible, taking care not to throw away or waste any that would pay to work. Of course you keep an accurate account of the cost, not only of raising and transporting of the ore to the mill, but of the cost of crushing it and converting into coin or bullion; and, as it is a matter of simple calculation, you can soon see if it will pay or if it is a losing business. If it costs more than it comes to, the sooner we find it out the better, and the sooner we stop the better for all parties concerned. I have heretofore called your attention to this point, and wish you to give careful attention to it, and would request that you furnish us such full and detailed statements on this point that we can see for ourselves. Give us the full particulars of expenses, am't of ore raised and its value, and the results after beneficiating, etc. Be careful about leaks and expenses, cut off all that is possible, and watch very closely every department with that view.

Don't run into debt or get into difficulty with the authorities, if there are any such things existing, but at same time be firm in maintaining your rights, and don't submit to imposition except by force, and then make a legal and formal protest as a citizen of the United States and as an American company duly organized and prosecuting a legitimate business under the protection of the law, and our rights will be protected by our Government.

We wish you also to ascertain and fix definitely the extent and boundaries of our properties, mines, hacienda, &c., &c., and to send us a copy of the same.

I suppose Costillo has furnished such an one; or if not, that he will do so. Please attend to this, as it may become important some time or other.

We hope the next advices from you will be favorable, and to learn that you will soon send us plenty of money to pay off the debts here. With best regards to Messrs. Cullins, Sloan, as well as to yourself, I remain, yr's truly,

D. J. GARTH, Tr.

(Endorsed :) "David J. Garth, July 10, '67." "To C. H. E."

OFFICE OF GARTH, FISHER & HARDY, BANKERS,
18 New Street, New York, July 20th, 1867.

Mr. CHAS. H. EXALL,
Tayoltita, Mexico:

D'R SIR: The steamer is just starting, and I have only time to say that your letter of the 11th, by private hand, has been rec'd, advising us that you had drawn on me for \$3,000, gold. In former letters you will have learned the condition of things here, and that there is no money to pay same, and that former draft of de Lagnel has been returned unpaid, and that you were urged to try and get along with what resources you have. These letters, no doubt, reached you in time to prevent your drawing, as no draft has been presented, and we hope by this time there is no necessity for doing so. I have no time to-day to write more, but hope you are getting on well; will write you fully as requested. I enclose several letters from y'r friend. Y'r's truly,

D. J. GARTH, Tr.

(Endorsed :) "David J. Garth, July 20, 1867."

NEW YORK, 10 August, 1867.

CHAS. H. EXALL,
Tayoltita, Mexico:

DEAR SIR: I wrote you briefly on 20th ulto., and since have your favor of 11th June from Mazatlan. Your letter by private hand had reached me some time previously.

We observe with deep regret and disappointment that you are making but little progress in beneficiating the ores now on the "patio," and that the yield had not improved. This is a severe blow to the enterprise, as we had expected long before this time that you would not only be in position to sustain yourself, but to remit us enough to pay off the large indebtedness here. We learn with deep regret that you are likely to become embarrassed in getting supplies for the rainy season. Long before this reaches you, it will be seen that the draft of de Lagnel, drawn for \$5,000, was protested and returned to Mexico, and that you must try and pay it, and it is well that you did succeed in negotiating the draft for \$3,000 you proposed, as we could not have paid it, and you must manage to get along with what resources you have, as we cannot give you any aid from here. I would advise you to try and beneficiate what

ore you have on hand, if it will pay to do so, and to cut down expenses to the lowest point, merely taking care of the interest and property of the company as best you can until further instructed, and in mean time give us complete account of expenses, debts, and full balance-sheet of your books to latest period, and also give us your opinion in full of the prospects of the mines, values of the ores, cost of raising and working, with yield of same as requested in former letters. From the reports we get

in the papers, we find that Americans and all foreigners will not be protected 92 in their persons and rights in that country, and that we may have to abandon our property there. If so, you must take all necessary and legal measures, by protest and otherwise, to secure our claim against the Government. Mr. Rice no doubt will be of essential service to you in any measure of this sort, and we would advise you to consult freely with him. The directors of our company are trying to reorganize and to raise money to pay off the debts, and to prosecute the work anew if possible, but I am constrained to say with but little hope of success. Meantime, you must get out all the means you can from the ores, cut down all expenses, keep out of debt, and do what you can to protect and preserve the property of the company.

Very truly yours,

D. J. GRATH, *Tr.*

NEW YORK, Oct. 10, 1867.

MR. CHAS. H. EXALL,
Tayollita, Mexico:

DEAR SIR: Since ours of 30th Sept'r, we have yours of 5th August from Mazatlan and note contents. We are deeply pained to find that you are not well, and that, and are still without favorable results in the enterprise from which we all had such high hopes of success. I am very sorry to say that it is not possible to aid you from here, and that you must rely entirely upon the resources of the mines and mill to keep you going and to relieve you of debts heretofore contracted. It is not possible for us to direct any particular course for you, but only to urge you to try and work along as well as you can, cutting down expenses and avoid embarrassing yourself with debts. The Bank of Cal. has again sent Col. D. Lagne's draft here for collection, but it was not possible to pay same, and it will have to return to Mexico, and we do hope you will be able to make some satisfactory arrangement to pay it.

Very truly, yours,

J. D. GARTH, *Treas'r.*

I enclose letter from your friend.

ORIGINAL LETTERS, SIGNED C. H. EXALL, OFFERED IN EVIDENCE, AND IDENTIFIED AS TO HANDWRITING BY THE TESTIMONY OF WILLIAM P. TUTTLE.

TAYOLLITA, Feb'y 26, 1868.

MR. JAMES GRANGER:

SIR: As circumstances are of such a nature as to compel me to leave for San Francisco, and probably for New York, to inquire into the intention of this company, I place in your hands the care and charge of the affairs of the La Abra S. M. Co., together with its property.

You are invested hereby with all power confided to me, of course acting in all your transactions with an eye to the interests of the company.

This will to you, should occasion require it, be ample evidence of the right possessed by you to act in their behalf.

Very respectfully,

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

MAZATLAN, March 15th, 1868.

DEAR GRANGER: I wrote you by Rice, and said everything I thought necessary. Since writing something else has transpired, which I think it best to post you on. On yesterday Bartning and I had another conversation in reference to the draft matter, but I gave him no satisfaction in the affair. He seemed particularly anxious for me to acknowledge the debt, and that the money had been used for the benefit of the co. His object in this is plain. He wants to get some hold on the co. which he has not now. I told him I would consult with Ralston in the matter, but of course Mr. R. will get nothing more from me than Mr. B.

In reference to the La Abra affairs, I think we will have to look to this country. The property cannot be sold without legal authority from the co. This I think I can get. Am induced to believe so by the co. letters rec. In fact, it would be difficult to get a purchaser without authority to sell. I am certain of being able to get some

power from them, so as to enable us to secure ourselves. I will communicate with co. from San Francisco, and, if best, will go on immediately to N. Y. and return as soon as possible. Please keep everything in the best possible shape and secure, and by no means let my books be seen or known. It is to the interest of us both to do so; therefore I know you will act as I advise in the matter. I have been quite sick since being here, and at one time was afraid wouldn't be able to go up. Am now much better, and hope to be off to-morrow. The line is so arranged now that you can get from N. Y. to Mazatlan in 20 days, so I will not be gone very long. Please act prudently in this matter, and in a few months I think I will be able to put us both right. *Be sure and write me by next steamer* to San Francisco. I will make arrangements in San Francisco to receive them or elsewhere. Direct care of Weil & Co. You will get their number from the books. Hoping that you may get along all right, and that I will be soon again with you with means to satisfy ourselves,
I remain, your friend,

CHARLES H. EXALL.

93

SAN FRANCISCO, April 7, 1868.

DEAR GRANGER: After a rather pleasant voyage of 8 days we arrived at this point. The change in the climate did at first play the devil with me, but that soon passed off, leaving me in glorious condition, which has continued up to present moment—so much for health. Since being here I have seen Ralston of B'k of Cal.; he and I had long consultation, which resulted, in his opinion, that the affair had best be prosecuted in N. Y. I wrote you from M. in reference to my conversation with the German house in that place. Elder I have not seen, he and Belshaw having gone in the mining region to look after some mines. Cullins I saw once passing through the reading room of the hotel where I stop, Am. Exchange. I did not speak to him; don't think he saw me. I have determined to go on East; think it best I should do so, as the affairs of the co. can and must be decided at once, and I can, from N. Y., get to M. in 20 days; so you see this is the speediest way to settle the thing. For God's sake keep everything in as good shape as possible, and in event we have to fall back on the property, it will be in such condition that we may be able to realize something from it. It is hardly necessary to give any further instructions, as I have previously written all that I could on the subject, and you, knowing as well as myself, must be guided by your judgment. I will sail on the 4th or 5 by way of Nicaragua—steamer on this side, Moses Taylor; Atlantic side, Guiding Star. May probably have rough time. I have been considerably bored since being here, and wish to get off as soon as possible. I will either come on back *immediately* from N. Y. or write. Emigration is over-running Cal.; hundreds of people here with nothing to do.

Trusting that you may get along, at least comfortably, and that our affairs may soon be settled to our satisfaction,

I remain, yours, truly,

CHARLES H. EXALL.

NEW YORK, May 8th, 1868.

DEAR GRANGER: Yours, from Tayoltita, of March 25 reached me day before yesterday. Was much pleased to hear from you and to know that you were getting along in some shape. I wrote you from San Francisco just previous to sailing from this point, giving you a statement of my doings while there; so no need of repetition. As I stated in my letter to you, I came by the opposition route across the isthmus—Walker's old ground—and while crossing it I can safely say I had the damnest roughest time imaginable. It was awful low water in the small streams or rivers; heavy rains while on the journey; in water, pushing flats, etc., etc. It was an indescribable mean and rough trip. We were four days getting across; got pretty good sea steamer on this side; 27 days from San Francisco to N. Y. Of course, on the first day of my arrival here, I saw nothing of the company. The day after I went down and saw Garth. Had a long talk concerning affairs, and, contrary to our expectations, gave me no satisfaction; didn't seem to intend to do anything more. I have seen him several times, but have got nothing from him of an encouraging nature. He seems disgusted with the enterprise, and, so far as regards himself, intends to do nothing more, or have nothing more to do with it. Well, I then went to see one of the stockholders and directors, who talked a little better. It seems there is a party here who has been after Garth and this stockholder mentioned, to sell the mines to a wealthy party who are now successfully mining in California. This party have been after these gentlemen repeatedly, endeavoring to get them to sell the mines, etc., they bearing all expense and giving the present company so much stock. This party are not now in New York. One of them has gone to hunt up De Lagnel to get all possible information concerning Tayoltita, etc. In addition the party will pay up all debts against the company. From what this director tells me, they seem in earnest. They are not aware of my arrival; have been written to informing them of the fact.

and I will probably be brought in contact with them before long. Now, as you and I are the principal creditors—I haven't been able to get a cent from them—"the company"—and the thing being in my hands, if this party intend buying, we can and will make a good thing out of it. Those of the company I have seen have turned the affairs over to me; so, in case anything can be done with this party, don't be afraid of your interests—all accounts at the mines are under my control—as yours will be looked to in conjunction with mine. All now depends on what can be done with this party, and more information concerning it I am unable to give until seeing them. I have informed the company that they shall do nothing until you and I were paid, which seemed satisfactory.

This will be mailed by steamer of 11th inst. If you do not hear from me by steamer of 21st, it will be on account of affairs not having been concluded. You may certainly expect a letter by mail of 1st June; hope, previous to that time, that I may have made satisfactory arrangements, &c. Just at this crisis it will be necessary to keep all secure at the mines. In my conversation with these gentlemen I will represent things in a secure state if possible, get prorogues on mines where times are expiring; keep them secure, if possible, in some way; don't be uneasy or spend a thought on Cullins or B'k of Cal.; find out in a quiet way when and where you may dispose of the remaining property, but do not sell until you hear again from me. I hope to be able to make something for ourselves out of this thing; at present we are in the dark, but I will soon know something definite and will immediately write you. In case this party should purchase I will accompany them to the mines. You can extend Ariza's "Guarismey" privilege "if he wants it" another 3, 4, or 6 mos.; don't extend Guadalupe's more than a month at a time; do the best you can under the circumstances, using your own judgment, being guided to an extent by what I have written.

I am also sorry I sold Green Nelly; I think he is a damn rascal, and his company a fizzle. Get the mule, saddle and bridle, and clothes from Green. If the co. owe you anything make them pay. Green's draft was refused in Frisco and here. I inclose a note to him from the man the draft was drawn on, also one from myself.

I wish I could send you some means to get along with, knowing you must be having quite a rough time, but am unable. I expected to be paid up here; its not having been done plays the devil with my arrangements. Since my arrival here the weather has been exceedingly unpleasant; raining nearly all the time. N. Y. is exceedingly dull; business much depressed; the political state of affairs of course has everything to do with it. Johnson is not yet impeached, and heavy odds are bet in Washington against the impeachment. Many changes have taken place since I was here last. Old friends I left, book-keepers, clerks, &c., many are now doing business on their own accounts, but have a hard time of it on account of the state of affairs here. Tomorrow I intend to take a run down to old Va., to see my folks. My mother and a sister are in exceedingly ill health; expect to be gone from here only a few days. I have now written all that bears on the important subject with us. Would write more definite, but, as you see, I am now unable to do so. I will write immediately on receipt of news. Let me hear from you every opportunity, and direct via Acapulco, as they get here sooner than by Frisco. I will send this that way. My kind regards to Slone "Manuelitta"—I think that's the way to spell the name—Guadalupe's family generally, Cecilia, and the Tayoltitians generally. How are you and Cecilia now? Hoping that this may find you well and getting enough to eat, I remain as ever, your friend,

CHARLES H. EXALL.

The contents of this keep to yourself.

NEW YORK, June 15, 1868.

DEAR GRANGER: In my letter written in May I informed you of the possibility of my being able to do something with the Abra affairs through other parties. (The old company manifest the utmost indifference regarding or in reference to everything belonging to or connected with their affairs in Mexico, and have virtually given everything into my hands.) I also informed you I would communicate with you by mail of the 1st of June, giving you something definite. This I was unable to do, which will show to you by reasons which I will give. After my arrival here I was informed that some parties had been here consulting with one of the stockholders in reference to purchasing their affairs in Tayoltita. This party, on my arrival, were in Philadelphia; so I was unable to see them. After remaining here some eight or ten days awaiting them, I went to Virginia; remained there some days, when I was informed of the arrival in N. Y. of the parties above mentioned. I hurried on immediately; it was then too late to write by 1st of June mail. Since being here I have seen these people daily, and have given them every information which would tend to make them think favorably of the property—given statements, accounts, inventories, indebtedness, &c., &c., besides speaking as favorably of the property as possible. The prime

mover in the affair is a man who knows a good deal concerning the property, and who expects (if he succeeds in organizing a co.) to get a position at the mines. This man has friends who live here and in Philadelphia; he is trying to induce them to enter into the enterprise and form a co., and, from what I gather from him, he has to an extent succeeded, but has not yet come to final terms. The proposition of this co. that is to be formed is to pay off you and I to start with, and give a certain interest to the old co. (The old company *refuse to pay us our dues, and we are totally unable to recover anything from them.*) I have given these parties a condensed summary of accounts of La Abra S. M. Co. I inclose a copy. You will see it *does not* accord with the books, but I gave it this way, as requested by the party who is endeavoring to start the co. An inventory of stock, as nearly as I could recollect, endeavoring not to go over the amount which I supposed on hand. I inclosed a copy—liabilities, also inventory of tools and material, as given by De Lagnel in Ap'l, 1867. The one I gave them is a copy of the one De Lagnel brought home with him, and of which you have copy at hacienda. It is exactly like his, with these exceptions: One silver-mounted saddle, \$35; 3 Cal. saddles, \$30; and in place of 10 mules @ \$600, I put 4 @ \$60—\$240. With exceptions, it is exactly like the list De Lagnel brought on. My object in leaving these items out was on account of some not being there, and others for own uses, which I will hereafter mention. I do not send a copy of this last list, as there is or was one at the hacienda. It is necessary, as near as possible, that in event of this party taking hold of the works, that these things should be there, as represented, and show for themselves in event of parties being sent out to investigate. The mine which they think most of and will work, and on which the company is formed, "if it is formed," is the La Abra. So you see the great necessity of keeping that mine, as well as the rest, protected. Use your best judgment in affairs, then, keeping things in such shape as will advance the interest of affairs. Make the inducement as great as possible to induce parties to take hold; and in case any one should be sent out, or you written to, let your statements correspond with mine as regards stock. If possible, let them go beyond mine. The indebtedness of the co. to as I have represented to these parties as being to Jas. Granger, \$2,850; to C. H. Exall, \$5,113.32; Bank of Cal., \$5,000. The statement regarding your account and mine, as represented, is over and above any and everything which we have gotten from the co. To be a greater inducement to these parties to purchase, and let them see I had confidence in the mines, at their request I have agreed to take in stock to the amount of \$2,000, and have taken upon myself to act for you to the extent in stock of \$850. This, I hope, will meet with your approval. Should anything occur, let your statements accord with mine. These parties leave for Philadelphia in a day or two, and will be able to report definitely in a week or two, when I will write you immediately, giving you all points in detail. I should not like these parties to come in contact with Green, Martin, or any one who would prejudice them, &c. If we can succeed, as I have stated here, we will be doing well as things are situated. Send me, as soon as possible, power to act for you. I can imagine your feelings away out in that damned gloomy place, and truly sympathize with you, and doing all in my power to get you away as soon as possible. Affairs here are very dull, little business doing. My health has been very much shaken since coming on; suppose it results in change of climate. The weather here has been, since my arrival, so damp, rainy, and disagreeable. Please do, as far as in your power, as I have suggested. The books don't let *any one* see, for reason which will occur to you. My kind regards to Mr. Sloan. De Lagnel is at Fort Hamilton. I have not seen him; understand he will study divinity; don't know with what truth the report. Be assured you shall hear from me at the earliest moment. Kind regards to all. With best wishes and kindest feelings to yourself, I remain your friend,

CHARLES H. EXALL.

Address in care of Ginter and Colquitt, 15 New st., N. Y.

RICHMOND, July 18, 1868.

DEAR GRANGER: In my last to you it informed you of the probability of a company being started, and on the formation of said company depended our salaries. Since writing my last I have seen the parties frequently, and have had long conversations with them in reference to raising this company and the payment of its indebtedness. The indebtedness to you and me they seemed willing to liquidate and take their chances with the rest. In my previous letter I instructed you in reference to the figures representing your and my amt.; keep it as it is but make no entry. This party have gone to work and I believe will succeed in raising a company in a month or two. I have not been with them for the last week. My time has been spent partly in N. York and partly in Va. Was in N. Y. during Dem. conventions; an immense concourse of people assembled there to take part and see what was going on. The weather during the time was oppressively hot—almost unendurable. I arrived here

on the 14th, and as I have nothing to do will remain here awhile. New York and in fact in all the States it is excessively dull—a complete stagnation of business. There is one other thing I did some weeks ago, as I thought I had best make as sure as possible about getting my pay. It was this: I entered suit against the company, not with the expectation of recovery just yet, but something to fall back on in case this company was not formed; recently there has been a better show for raising the company than ever before. So I just let the suit remain over in a manner in which it can be revived at any moment. I want you to send me your statement and your power of attorney to act for you in case I found it necessary to continue the suit; if I succeed in recovering for self could probably recover for you. The amount to be sued for is the just amount due me at \$3,500 up to time of my demand on them in person for

96 a payment and for my traveling expenses, &c. I will inform you in time to make proper entries, sending a list of expenses, &c. If I have to deal with a new company I want to get out of them all I can; if with the old one I must deal with them strictly. I will in time write you as things develop. By all means keep the mines secure, particularly the Abra—don't allow any one to touch the books or don't give any statements—these affairs are now in our hands, and without satisfaction we must not do ourselves injustice. Before leaving New York the other day, I went down to Fort Hamilton to see De Lagnel; he seems much pleased to meet with me. I spent some hours with him very pleasantly; his wife is a fine woman. De L. is and has been doing nothing since leaving Mexico. He is pretty hard up, I reckon. In fact there are many more in a like condition, your humble servant included, though not starving. A day or two before leaving New York I heard Bartalow had arrived there—did not see him. What do you think of the nomination of Seymour and Blair? People seem to think that the carrying the Democratic ticket is the only hope of saving the country from the devil. I have great hopes that this party may succeed. I expect to return to New York again in a short time to watch how things get along, and will inform you accordingly. Remember me kindly to Mr. Sloan and all friends, and you, dear old fellow, look upon me as ever your true friend,

CHARLES H. EXALL.

Directions as given in former letter.

DEPARTMENT OF STATE,
Washington, October 18, 1888.

E. J. BABCOCK, Esq.,
Clerk to the Committee on Foreign Relations, United States Senate.

SIR:—

In connection with Senator Morgan's letter of the 8th instant, I herewith transmit for the information of the Sub-Committee of the Committee on Foreign Relations, a duly certified copy of the record of the case of La Abra Silver Mining Company against Mexico, before the late American-Mexican Claims Commission organized pursuant to the treaty of July 4, 1868, between the United States and Mexico.

I am, sir, your obedient servant,

G. L. RIVES,
Acting Secretary.

Enclosure:
Certified copy mentioned.

No. 489.

| | | |
|--------------------------------|---|--------------------------------------|
| LA ABRA SILVER MINING COMPANY, | } | Under the treaty of July 4, 1868. |
| <i>against</i> | | |
| THE REPUBLIC OF MEXICO. | } | |

No. 4006.

UNITED STATES OF AMERICA, DEPARTMENT OF STATE.

To all to whom these presents shall come, greeting :

I certify that this is a correct and complete copy of the original record of the case of La Abra Silver Mining Company against the Republic of Mexico before the Claims Commission under the treaty of the fourth of July, 1868, between the United States and Mexico, as said record was filed in this Department pursuant to law, with the following exceptions :

- (1) An abstract of title is given, instead of copies of the original deeds.
 - (2) Wherever documents in Spanish are found in the record, the translations therein accompanying the same, are given instead of the original Spanish.
- In testimony whereof I, George L. Rives, acting Secretary of State of the United States, have hereunto subscribed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this sixteenth day of October, A. D. 1888, and of the Independence of the United States of America the one hundred and thirteenth.

[SEAL.]

G. L. RIVES.

[Copy.]

This volume contains the complete record of the case except the closing argument for claimant, before the Comm'r, the opinions of the Comm'r, and the arguments of counsel before the umpire, and except that an "abstract of title" is inserted in place of the full deeds.

R. COYLE,
Sec'y.

In the matter of the claim of La Abra Silver Mining Company against the United States of Mexico, under the Convention of the United States of America and the United States of Mexico of July fourth, one thousand eight hundred and sixty-eight.

(To be submitted on the part of the United States of America to the Commissioners appointed under that Convention.)

MEMORIAL AND EVIDENCE FOR CLAIMANT.

Doc. No. 4.

MEMORIAL OF LA ABRA SILVER MINING COMPANY

To the American and Mexican Joint Commission:

The memorial of "La Abra Silver Mining Company" respectfully represents:

That your memorialist is a corporation, formed November 16th, 1865, under and by virtue of the provisions of the act of the Legislature of the State of New York of the United States of America, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes," passed February 17th, 1848, chartered for the "purchase of mines and mining, melting, dressing, smelting, buying and selling argentiferous and other ores, minerals, and metals." That the corporate name of your memorialist is "La Abra Silver Mining Company;" that the shareholders of La Abra Silver Mining Company were, at the time of its said formation, thence, hitherto, and now are citizens of the United States of America; that the principal office of said company has hitherto been, and now is in the city of New York, in the State of New York aforesaid; that the amount of the stock of said company was \$300,000, and the existence of said company was limited to fifty years. That it was provided in the charter of said company, among other things, as follows:

"Said company is formed for the purpose of carrying on a part of its business in places out of the State of New York, which places are, Tayoltita, in the State of Durango, and, also, the mineral district of San Dimas, both in Mexico."

That shortly after the date of their said charter, the said company purchased and became the owners and proprietors of certain mines and haciendas of great value in Mexico, to wit, the mines Rosario, La Luz, El Christo, Los Inocentes, 550 feet of the mine Nuestra Señora de Guadalupe, 22 equal, undivided 24th parts of the mine La Abra, and the haciendas St. Nicholas and Guadalupe, and the water power appertaining thereto, all situated at Tayoltita, in the State of Durango, and the mines La Arroyon, El Lou, and La Talpa, situated in La Talpa mountain, in the State of Sinaloa, and the following mines were denounced by the then superintendent of the company for the company, to wit, Sol Felipe, San Antonio and Bartholow, all situated at Tayoltita aforesaid; the said mines situated at Tayoltita were usually known by the general name of "La Abra mines;" that said mines were of extraordinary richness, so much so that they had become of historical interest, being especially mentioned for the abundance and richness of their ores, by Baron Humboldt and Mr. Ward in their respective works.

That after becoming the proprietors of said mines, the said company, with all possible dispatch, proceeded to the working of said mines; to that end they sent intelligent agents to Mexico, employed large numbers of miners, machinists, and laborers, purchased great numbers of mules and their equipments, large quantities of provisions, a large quantity of the best and most improved machinery, which they transported on the backs of mules to the mines, at heavy cost, and incurred other expenses necessary to the most extensive and successful working of said mines; that they expended, in the purchase of said mines and their working the sum of \$303,000; that as the result of this large expenditure, they were getting out of said mines a large amount of the richest ore, and were in the act of realizing the extraordinary profit of a million dollars per annum, when they were compelled to abandon their said mines and all their machinery and other property and over a thousand tons of ore obtained by the company from their said mines, by reason of unfriendly and illegal acts of the Mexican officials. An intense prejudice was constantly manifested by the authorities, both civil and military, and by the Mexican populace, against all Americans, and especially against those engaged in mining, including said company. This prejudice was intensified by the belief that the Government of the United States intended to annex Durango, Sinaloa and other States, to their territory; and it was generally reported and believed that "La Abra Company" was assisting in this purpose. The property of the company, and the persons and the lives of the employees were threatened by the authorities and the people. The company's superintendent was arrested without having given any cause of offense and fined and imprisoned

without trial, and without being informed of any offense. When the superintendent applied to the authorities, both civil and military, in Durango and Sinaloa for protection, his request was harshly refused. Acts of violence were committed against the property and employees of the company, which were encouraged by the authorities. The employees of the company became so alarmed, that it was impossible to keep them at work. The authorities repeatedly seized mule trains of the company loaded with provisions, and appropriated the same to their use. Large quantities of ore, taken out of the mines, were taken from the company, the employees of the company being deterred by threats from resisting such spoliation. Things finally got to such a pass, that one of the personnel of the company, in charge of one of its trains, was openly killed by the Liberal forces, and the train seized and that was made matter of boast by Mexican officials, and the authorities at San Demas openly avowed their purpose to drive out all American mining companies and get their property. Your memorialist charges that one motive of this persecution was to compel the company to leave, and thus permit the Mexicans to obtain possession of their valuable property. From the said persecutions, outrages and insecurity, it became impossible for the company to work the said mines, and the same were abandoned as aforesaid. That said enforced abandonment of said mines utterly ruined said company, who sustained damages to the amount of \$3,000,030, as will appear by the following consideration.

When said company acquired said Abra mines, though said mines were of immense richness, it was impossible from their neglected state, to extract ores except by heavy expenditures. That in connection with said principal Abra mines, were buildings of great cost and other permanent structures, but owing to the abandoned condition of said mines they were of no present value; that the large expenditures made by the said company at said mines, gave a very great value to said mines, and buildings and other permanent structures. That said mines with said buildings and other permanent structures, became and were of great value, to wit, of the value of \$1,000,000.

7 That at the time of the abandonment of said mines, the company were obliged to abandon one thousand tons of silver ore already extracted worth \$500,000, which it was impossible for them to bring away from the mines, and which, upon the abandonment of said mines by the company, were carried off by the Mexicans and they were lost to the company.

That at the time of the abandonment of said mines by the company, the company were extracting large quantities of ore, and their profits would have been very great if they had been permitted to work said mines; that the company estimate their clear annual profits which they could have obtained from said mines, at \$1,000,000 per annum. That in addition to the expenditures in said mines as aforesaid, said company have expended \$30,000, in conducting their business otherwise than in the expenditures at said mines.

That said mines and the improvements and machinery therein, have become wholly lost to said company. And in consideration of the premises, the company say that their losses and damages, in the premises, because of their enforced abandonment of said mines, is in the whole, \$3,000,030.

That the claimant is now a corporation of the United States of America, and its stockholders are all citizens of said United States, and it was such corporation when this claim arose. That the principal office of said company when this claim arose, and thence, hitherto, and now is, in the city of New York aforesaid. That neither said company or any of its stockholders were subjects of Mexico, or had they or any of them, ever taken any oath of allegiance thereto.

The entire amount of the claim does now and did when it had its origin, belong solely and absolutely to the claimant, the said company, and no other person has any interest therein.

That the company has never received any indemnity for said claim, nor any person for them.

That the claim was not presented prior to February 1, 1869, to the Department of State of either Government, or to the Minister of the United States at Mexico.

Wherefore in consideration of the premises, your memorialist prays for an award against the Government of Mexico for their said damages and interest thereon.

That said company and its officers and shareholders are absent from and beyond the District of Columbia.

LA ABRA SILVER MINING COMPANY,

By their Attorney-in-fact, ROBERT ROSE.

FREDERICK STANTON, }
ROBERT ROSE, } Counsel.
W. W. BOYCE, }

DISTRICT OF COLUMBIA, Washington County, ss:

Before me, Randolph Coyle, U. S. Commissioner, personally appeared the above-named Robert Rose, attorney-in-fact of the memorialist, who being duly sworn says

on oath, that the matters of fact set forth in said memorial are true so far as they are stated from his own knowledge, and so far as they are stated upon information derived from others, he believes the same to be true, and that the said claimant is now absent from the District of Columbia.

ROBERT ROSE.

Sworn to and subscribed before me, this 14th day of June, 1870. Witness my hand and official seal the day and year aforesaid.

[SEAL.]

RANDOLPH COYLER,
U. S. Comm'r.

9

CERTIFICATE OF INCORPORATION OF LA ABRA SILVER MINING COMPANY.

Doc. No. 6.

Know all men by these presents: That we, whose names are hereunto signed, desire to form a company under and pursuant to the provisions of the act of the Legislature of the State of New York entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," passed February 17th, 1848, and of the several acts extending and amending said act, for the purpose of carrying on the kind of business hereinafter mentioned, and that to that end we do hereby certify as follows, to wit:

First: The corporate name of the said company shall be "La Abra Silver Mining Company."

Second: The objects for which the said company shall be formed are the purchase of mines and mining property, and the mining, melting, dressing, smelting, buying and selling argentiferous and other ores, minerals, and metals.

Third: The amount of the capital stock of the said company shall be three hundred thousand dollars.

Fourth: The term of the existence of the said company shall be fifty years.

Fifth: The number of shares of which said stock shall consist shall be three thousand.

Sixth: The number of trustees who shall manage the concerns of the said company for the first year shall be seven, and their names are: William L. Hearn, David J. Garth, Stephen F. Nuckolls, Weston F. Birch, Lewis Morris, Hiram P. Bennet, and Danbey C. Garth.

Seventh: Said company is formed for the purpose of carrying on a part of its business in places out of the State of New York, which places are Tayoltita, in the State of Durango, and also the mineral district of San Dimas, both in Mexico; and the name of the town and county in the State of New York in which the principal part of the business of said company within said State is to be transacted, is the city and county of New York.

In witness whereof, we have hereunto signed our names, this eighteenth day of November, in the year one thousand eight hundred and sixty-five.

DAVID J. GARTH.
STEPHEN F. NUCKOLLS.
HIRAM P. BENNET.

[U. S. Inter. Rev. 5 ct. stamp, canceled.]

STATE OF NEW YORK,

City and County of New York, ss:

On this eighteenth day of November, one thousand eight hundred and sixty-five, before me personally came and appeared David J. Garth, Stephen F. Nuckolls, and Hiram P. Bennet, to me known to be the individuals described in and who executed the foregoing certificate, and they severally before me made and signed the same, and acknowledged that they made and signed the said certificate for the purposes therein mentioned.

GRATZ NATHAN,
Notary Public, N. Y.

Endorsed: Filed November 21, 1865.

[U. S. Inter. Rev. 5 ct. stamp, canceled.]

STATE OF NEW YORK, *Office of the Secretary of State :*

I have compared the preceding with the original certificate of incorporation of La Abra Silver Mining Company, with acknowledgment thereto annexed, filed in this office on the twenty-first day of November, 1865, and hereby certify the same to be a correct transcript therefrom, and of the whole of said original.

Witness my hand and seal of office of the Secretary of State, at the city of Albany, this twenty-first day of November, one thousand eight hundred and sixty-five.

ERASTUS CLARK,
Deputy Secretary of State.

[Seal, Secretary's Office, State of New York.]

STATE OF NEW YORK, *City and County of New York, as :*

I, William C. Conner, clerk of the said city and county, do certify that I have compared the preceding with the original certificate of incorporation of La Abra Silver Mining Company, on file in my office, and that the same is a correct transcript therefrom and of the whole of such original.

In witness whereof, I have hereto subscribed my name and affixed my official seal, this 24th day of November, 1865.

[N. Y. SEAL.]

WM. C. CONNER,
Clerk.

[U. S. Inter. Rev. 5 ct. stamp, canceled.]

11

TITLES.

Translated abstract of the titles of the company to La Abra property, relating to the mines at Tayoltita and the haciendas of San Nicolas and Guadalupe, consisting of the original denunciations, and showing the transfers of the property down to the time the Abra Company became the purchaser.

Doc. No. 31.

This document is a notice to Juan Castillo de Valle, dated Durango, June 6, 1865, that upon his petition of the 40th of May, ult., that the mining board had, in view of the difficulties attending the working of the Arroyan, Cristo, Santos Ynocentes, and Abra mines, and in accordance with the 10th article of the 6th chapter, and the 14th article of the 9th chapter of the mining ordinances, granted him the exemption in favor of the said mines asked for in his petition.

(Sig'r)

JOSE PALAO,
General Sec'y ad interim.

Here follows the certificate of the notaries public, Juan Rivas and Jesus Cinqueni, that the foregoing signature of José Palao, the general secretary *ad interim* of the political prefectura of the department of Durango, is a true and genuine signature, and that the signer was the party he styled himself to have been.

Here follows the signature and certificate of the Governor, Florentino Carrillo, of the State of Durango, to the signatures of the notaries.

Here follows certificate of the United States consul at Mazatlan to Governor Carrillo's signature, &c.

[SEAL.]

Doc. No. 32.

Documents relating to the title of the hacienda or reducing works of Nuestra Señora de Guadalupe, at Tayoltita :

No. 1. This document, drawn at San Dimas, on the 8th of January, 1854, shows that Mariano Tajo transferred the hacienda of Guadalupe to José Ma. Valle, for the sum of three hundred and fifty dollars. This document is the title under which transfer is made by document.

No. 2. Which is a transfer of the same hacienda, made by Vicente Rubio and his wife, Benigna Valle de Rubio, on the 14th of December, 1863, to Vincente Melecos, of San Dimas, for the sum of two hundred dollars.

No. 3. Is a transfer of the same hacienda, made by Vicente Melecos, at San Dimas, State of Durango, on the 21st of December, 1863, to Miguel Laveaga, of the same place, for the sum of two hundred dollars.

No. 4. (This is the third paper.) Is a transfer of the same hacienda, made by Arcadia Laveaga, in the name of his father, Miguel Laveaga, at San Dimas, department of Durango, Mexico, on the 13th day of July, 1865, to Juan Castillo de Valle, before

Martin Delgado, the local judge, for the sum of six hundred dollars.

12 Here follows certificate of the notaries public, Felipe Villareal, and Felipe Villareal Garcia, dated at the city of Durango, June 14, 1872, to the signature of Martin Delgado, before whom the last transfer of Laveaga to Valle was made. Also, separate certificates of the same notaries to the signatures of Vicente Melecoco, who made the transfer to Laveaga, and also to the signature of Parqual Frias, and Carila Contreras, who attested the bill of transfer.

Here follows certificate of General Florentino Carrillo, Governor of the State of Durango, to the signatures of the above notaries.

[SEAL.]

Here follows certificate of the United States consul at Mazatlan to the Governor's and his secretaries' signatures.

Doc. No. 33.

Title deed of the hacienda de Beneficio, (reducing works,) called San Nicholas, at Tayoltita, Durango, Mexico.

By these documents is shown that this hacienda, which was formerly known as the Carmen, was denounced by Juan Castillo de Valle and Ignacio Manjarrez, on the 16th of March, 1855. That after having repeated the usual formalities required by the mining ordinances, that final possession thereof was given to them by José de la Barcena, Governor and General Commandant of the State of Durango, on the 30th of April, 1857.

Here follows certificate of the notaries public, Jesus Meneses and P. Rueda Flores, dated Mazatlan, August 17, 1872, to the signatures of José de la Barcena, Governor of the State of Durango.

Here follows certificate of General Domingo Rubi, Governor and Military Commandant of the State of Sinaloa, to the signatures of the above notaries.

Here follows certificate of the United States consul at Mazatlan to the signatures of the Governor and that of his chief clerk.

Doc. No. 34.

Documents relating to the denouncement of the Arrayan mine.

These documents show that the Arrayan mine was denounced by Juan Castello de Valle and Ygnacio Manjarrez, at the mining town of Tayoltita, in the district of San Dimas, State of Durango, before the chief of the Department, on the 30th of December, 1861. That after the usual formalities prescribed by the ordinances of mining had been complied with, that final possession of the mine, according to law, was given on the 28th of February, 1862, by Jesus Vega, prefect of the district of San Ygnacio.

Here follows certificate of the notaries public, Jesus Meneses and Francisco Meneses, dated Mazatlan, August 12, 1872, that the foregoing signature of Jesus Vega is true and genuine, and that he was at the time in charge of the prefectura of the district of San Ygnacio, and of the mining branch.

Here follows certificate of Colonel José Ma. Rangel, Governor and Military Commandant of the State of Sinaloa, dated August 14, 1872, to the signatures of the above notaries.

Here follows certificate of the United States consul at Mazatlan to the signatures of José Maria Rangel, the Governor, and his chief clerk, Francisco Salda Rodriguez.

Doc. No. 35.

13 Title deeds of the Nuestra Señora del Rosario Mine, situated at the mineral of Tayoltita, belonging to Messrs. Juan Castillo del Valle and Ygnacio Manjarrez.

These documents show that the mine of the Rosario was denounced by Juan Castillo de Valle, Ygnacio Manjarrez, and Candido Farin, on the 30th of December, 1854,

On the 11th of April, 1855, after having complied with the usual formalities required by the mining ordinances, Messrs. de Valle and Manjarrez asked for possession, in due form, of the mine, showing at the same time that Candido Farin, who had denounced with them, had disposed of his interest in the mine to them for fourteen hundred dollars. Hereupon, and on the 28th of April, 1855, final possession of the mine was given by the local judge, Ygnacio Quiroz Rivera, to de Valle and Manjarrez.

There is also appended a copy of an instrument executed by Farin to de Valle and Manjarrez, transferring his interest in the mine to them.

Here follows certificate of the notaries public, Felipe Villarreal and Jesus Cincunegui to the signatures of Martin A. Yrigoyen, Miguel de Laveaga, Juan Castillo de Valle, Francisco Acosta, and Ygnacio Manjarrez, whose names are appended to the foregoing documents, dated at the city of Durango, on the 14th of June, 1872.

Here follows certificate of General Florentino Carrillo, governor of the state of Durango, to the signatures of the above-named notaries.

Here follows certificate of the United States consul at Mazatlan to the signatures of the governor and his secretary.

Doc. No. 37.

Title deeds of the Cristo mine, situated at Tayoltita, department of Durango, Mexico.

By these documents is shown that final possession of this mine was given to Messrs. Juan Castillo de Valle and Ygnacio Manjarrez, by Luis Trijo, the jefe politico of the department of San Dimas, on the 4th of September, 1863, and that the present title deeds were issued to the said parties by José M. Patoni, the governor and military commandant of the State of Durango, on the 9th of September, 1863.

Here follows certificate of the notaries public, Jesus Meneses and P. Rueda Flores, dated Mazatlan, August 17, 1872, to the signature of Governor Patoni.

Here follows certificate of General Domingo Rubi, Governor of the State of Sinaloa, to the signatures of the above-named notaries.

Here follows certificate of the United States consul, at Mazatlan, to Governor Rubi's signature, and that of his secretary, Francisco Salido Rodriguez.

Doc. No. 38.

Title deed of possession of Santos Ynocentes mine.

These documents show that this mine was denounced by Juan Castillo de Valle, at the mining town of Tayoltita, on the 5th day of August, 1865; that after having completed the usual formalities required by the mining ordinances, that final possession thereof was given to de Valle on the 24th of August, 1865, by the political prefect of the department of Durango, Buenaventura G. Saravia.

Here follows certificate of the notaries public, Juan Rivas and Jesus Cincunegui, dated at the city of Durango, on the 14th of June, 1872, to the signature of the prefect superior of the department of Durango, Buenaventura G. Saravia, and Bernado de la Torre, his Secretary.

Here follows certificate of General Florentino Carrillo, governor and military commandant of the state of Durango, to the signatures of the above notaries, dated June 17, 1872.

Here follows certificate of the United States consul at Mazatlan, to the signatures of the governor and his secretary.

Doc. No. 39.

Bill of sale executed at Mazatlan on the 25th day of September, 1865, before Antonio Aldrete, notary public.

This document shows that Juan Castillo de Valle, in his own behalf, and as attorney-in-fact of his partner, Ygnacio Manjarrez, joint and equal owners, did sell and transfer to Thomas J. Bartholow and David J. Garth, jointly, on behalf of himself and partner, all their right, title, and interest in the following mines and haciendas, for the sum of fifty thousand dollars, paid to them, and the receipt of which is ac-

knowledgeed, to wit: The Nuestra Señora del Rosario mine; the Luz mine; the Cristo mine; the Santos Ynocentes mine; the Arrayan mine; the Nuestra Señora de Guadalupe mine, of which the vendors own and sell five hundred and fifty feet, and the haciendas de Beneficio (or reducing works) of San Nicolas and Guadalupe.

Here follows certificate of General Prisciliano Flores, Governor and military commandant of the state of Sinaloa, dated Mazatlan, August 9th, 1872, to the signature of the above-named notary.

Here follows certificate of the United States consul at Mazatlan to the signature of Governor Flores, and his secretary, Francisco Salido Rodriguez.

Doc. No. 11.

By deed dated the 22d of October, 1866, David J. Garth and Thomas J. Bartholow made formal transfer to the Abra Silver Mining Company, of all the right, title, and interest, which they individually or otherwise had in the foregoing mines and haciendas, viz: the Rosario mine, the Luz mine, the Cristo mine, the Santos Ynocentes mine, the Arrayan mine, five hundred and fifty feet of the Nuestra Señora de Guadalupe mine, twenty-two equal twenty-fourth parts of the Abra mine, and the haciendas de Beneficio (or reducing works) San Nicolas and Guadalupe, and in said deed of transfer, they set forth that said mines and haciendas were acquired by them, and the title thereto was taken and held by them, for the benefit of and in trust for said company, and with funds which said company have furnished; which deed is executed before Henry Snell, a notary public of the city of New York.

Doc. No. 14.

Deed refers to mines San Antonio, San Felipe and Bartholow, denounced by Thomas J. Bartholow, as the superintendent of the company, and by him formally transferred, by this instrument, to the Abra Silver Mining Company. Dated and executed in New York, October 22, 1866, before said Henry Snell, notary public of said city.

[These papers complete the chain of title of the Abra Silver Mining Company, to their mines and haciendas (reducing works) at Tayoltita, districts of San Dimas and San Ignacio, states of Durango and Sinaloa, Mexico.]

Translation of certificate of Governor Carrillo, of Durango, relative to original titles on file.

"I, General Florentino Carrillo, governor and military commandant of the State of Durango, hereby certify that Alonzo W. Adams, a citizen of the United States, presented a petition to this Government, asking for certified copies of various denouncements of mines and reducing works therein stated, and which is as follows:

"To the Governor and military commandant of the State:

"Alonzo W. Adams, a citizen of the United States, appears before you and most respectfully represents, that he is a stockholder in, and attorney-in-fact of, the Abra Silver Mining Company, as is shown by the power now produced, and which he requests be returned to him, it being a general one, in which character he requests you to be pleased to direct, that certified copies be furnished to him of the documents mentioned at the end of this petition, the originals of which should be found in the office of the Secretary of the Government, they being essential to the interests of the company, as aforesaid; wherefore I request the favor of you to order their speedy delivery.

"DURANGO, June 4th, 1872."

"A. W. ADAMS."

(Order on the margin.) "Let search be made for the antecedents, and furnish the petitioner with the corresponding copies.

(Signed,)

"CARRILLO.

"JOSE PALAO, Secretary."

At the foot of the petition is as follows:

"*Mina del Cristo*," "a certified copy of the papers relating to the denouncement of this mine, of which possession was given on the 4th of September, 1863, and the title deeds on the 9th of the same month and year."

"*Mina de los Santos Inocentes*;" "a certified copy of the papers relating to the denouncement of this mine, dated on the 24th of August, 1865."

"*Mines of San Felipe*," "*San Antonia y Bartolow*;" certified copies of the possession or title deeds issued by the Government relating to these mines, also certified copies of the papers relating to the denouncement of these mines made by Mr. Bartholow, for account of the company, in the year 1865."

"*Hacienda (reducing works) of San Nicolas*;" "certified copy of the denouncement made by Juan Castillo de Valle and Ygnacio Manjarrez, of the reducing works at Tayoltita, known formerly as the Carmen, now as San Nicolas, on the 30th of April, 1857."

"*Mine of Nuestra Señora de Guadalupe*;" certified copy of the papers relating to the denouncement of this mine, situated at Tayoltita, made by Juan Castillo de Valle, and Ygnacio Manjarrez, possession of which was given by Governor José M. Patoni, on the 9th of September, 1863."

16 "*Mine de la Abra*;" "certified copy of the papers relating to the denouncement and possession of the said mine, which was denounced by Messrs. Luke and Luce, about the years 1863 or 1864; also copy of the transfer of the said mine made by these parties."

"*Hacienda (reducing works) of Guadalupe*;" "copy of the denouncement made of this hacienda, situated at Tayoltita, which was made by John Cole, a citizen of the United States, possession of which was given by Governor Mascareñas, on the 29th of March, 1864."

"The interests of the company further require that copies be given to it of denouncements which may have been made since April, 1863, up to the present time, of the mine *Nuestra Señora del Rosario*, and of the "*Luz*," which is within the boundaries of the former; of the "*Cristo*," the "*Santos Inocentes*," "*Nuestra Señora de Guadalupe*," "*San Felipe*," "*San Antonio*," "*Bartolow*," and the "*Abra*," all of which mines are located in the Abra mountain, mining district of Tayoltita, State of Durango, also of the "*Haciendas of San Nicolas*" and "*Guadalupe*," the former acquired by the denouncement of Messrs. Juan Castillo del Valle and Ygnacio Manjarrez, in the year 1857, and the latter through purchase made by the said Castillo de Valle, from Miguel de Laveaga, on the 13th of July, 1865, which hacienda is contiguous to the said hacienda of San Nicolas, and of another, "*Hacienda de Beneficio*," also called "*Guadalupe*," acquired through the denouncement of John Cole, on the 29th of July, 1864." "These haciendas are all located in the mining district of Tayoltita, in the State of Durango. Also a certificate to the document dated June 6th, 1865, signed by lawyer Jose Palao, as Secretary of the Government, extending the time for working the "*Cristo*" mine, located at Tayoltita."

"A. W. ADAMS."

"DURANGO, June 4th, 1872."

"Having made an examination of the archives, there were only found there the papers relating to the denouncement of the mine "*Nuestra Sra-del-Rosario*," made by Santiago Granger, an Englishman, on the 8th of April, 1871, of which the corresponding certified copy was given. The other copies requested by Mr. Adams cannot be given, because the "*expedientes*," which were in this, the office of the Secretary, were removed by order of the Governor of the State, General José M. Patoni, on account of the French invasion, to Parral, or Chihuahua, together with the archives pertaining to the years referred to by Mr. Adams, in his petition, and it is not known where the archives can be found."

And at the request of the party interested, I give the present at Durango, on the 25th of June, 1872.

"F. CARRILLO."

"JOSE PALAO, Secretary."

Here follows certificate of the United States consul, at Mazatlan, dated August 17, 1872, to the signatures of the Governor and Secretary.

Certified copy of the papers relating to the denouncement of the *Nuestra Señora del Rosario* mine.

The copy of the papers contained in this denouncement, now on file before this Commission, show: That James Granger, an English subject, denounced the
17 "*Rosario* mine," formerly belonging to La Abra Company, at Tayoltita. The denouncement was dated at San Dimas, April 8th, 1871. The usual formalities prescribed by the mining ordinances having been completed, formal possession of the mine was given to the said James Granger and Francisco Torres, his partner, by the "*Deputacion de Minería*" mining board, on the 11th of August, 1871. The papers show that there was no opposition made to either the denouncement or possession.

At the end of the copy of the papers relating to Granger's denouncement appears the copy of A. W. Adams' petition as attorney-in-fact of the "Abra Silver Mining Co.," dated Durango, June 4, 1872, addressed to the governor and military commandant of the State soliciting the said copy.

[Seal.] Here follows a certificate of the governor's chief clerk, that the foregoing is a true copy.

Here follows certificate of the United States consul at Mazatlan, to the signature of the governor's chief clerk.

NOTE.—This document has no bearing upon the claimant's title, and is irrelevant, except so far as showing that the mines have been subsequently denounced, and possession of them given to Granger and Torres by the authorities.

At the request of counsel for claimant, I have made the foregoing abstract or brief of perfected titles to the mines and haciendas of the Abra Silver Mining Company, from the original denouncements and title deeds, down to and including the conveyances to the company.

WM. C. TRIPLER,
Official Translator U. S. and Mexican Claims Commission.

- 18 *In the matter of claim for damages of La Abra Silver Mining Company against the United States of Mexico, under the Convention between the United States of America and the United States of Mexico, of July fourth, one thousand eight hundred and sixty-eight. To be submitted on the part of the United States of America to the Commissioners appointed under that Convention.*

DEPOSITIONS.

Doc. No. 9.

Deposition of Charles H. Exall, a witness on the part and behalf of said La Abra Silver Mining Company, taken before Hon. George G. Barnard, a justice of the supreme court of the State of New York.

Said Charles H. Exall, being duly sworn according to law, deposes and makes answer to the several interrogatories propounded to him, as follows, to wit:

Question number one. Where were you born and where do you reside, and what is your age and occupation?

Ans. I was born in the city of Petersburg, in the State of Virginia, in the United States of America; I reside in New York city; I am twenty-nine years of age, and my occupation is that of a merchant.

Question number two. Where did you reside, and what was your occupation from about September eleventh, eighteen hundred and sixty-six, to about March twentieth, eighteen hundred and sixty-eight?

Ans. I resided at Tayoltita, in the district of San Dimas, in the State of Durango, in Mexico, and I was engaged for and in the employ of "La Abra Silver Mining Company, superintending their mines and mining work and operations at their mines called "La Abra," at Tayoltita aforesaid.

Question number three. State, if you know, under what laws was said La Abra Silver Mining Company incorporated? Where was and is its principal office and place of business, and who was and is its president?

Ans. Said company was incorporated under the laws of the State of New York, in the United States, and its principal office and place of business was and is in the city of New York; and William L. Hearn, then of the city of Brooklyn, in the State of New York, now residing in the State of Missouri, was its president, when I was first employed by said company, but subsequently George C. Collins, of the city of New York, was made and still is its president.

Question number four. Does said company continue its mining work and operations at said mine?

Ans. No, it does not.

Question number five. When did said company cease its work and operations at said mines?

Ans. When I left Tayoltita, in Mexico, which was about March twentieth, eighteen hundred and sixty-eight, on or about that date.

Question number six. Why did said company cease its work and operations at said mines? State the reason, if you know.

Ans. Because I, and the men under my superintendence working at the said mines, were compelled to quit and abandon the company's mining operations and property because the interference, annoyance, and molestation we received during the progress of the work rendered success in it impossible, and rendered a continuance of the work dangerous to person and property, and intolerable, if not absolutely impossible.

19 Question number seven. State in what the annoyance, molestation, and interference consisted, and from whom they came, and when they occurred, and how you were compelled to abandon your said work and the mines of said company? State fully.

Ans. The feeling and prejudice of the authorities, both military and civil, and of both the local and national authorities, at Tayoltita, and in the States of Durango and Sinaloa, were very inimical to us. It was currently reported by the Mexican authorities and citizens, and we were accused of meanly coming there for the purpose of purloining the silver and gold of Mexico with which to enrich the United States, and finally of stealing the States of Durango and Sinaloa from Mexico, by annexation of the same to the United States, and this feeling and prejudice soon took an active hostile form, and our lives were threatened by both the citizens and the troops of the legitimate Government of Mexico under President Juarez, its present Chief Magistrate; those threats were frequently made, and we were in constant fear for our lives, and in pursuance of these threats, one of the employees working for said company, was actually killed while coming up from Mazatlan with a train of mules for said company, and we were finally driven off, and compelled to abandon our mining operations, by said authorities. The civil officers of the legitimate Government of Mexico under President Juarez also harassed and annoyed us, and interfered with the continuing of the mining operations of said company. I was arrested by the order of the local magistrate or judge of Tayoltita, whose official title, as I understood, was "Juez," and thrust into prison and sentenced by him to a fine of fifty dollars, and imprisonment for two months. I had no trial, nor even an examination, except by him personally, and do not know for what I was arrested or imprisoned; but I here state positively that I had not committed any act, crime, or offence against the laws or people of Mexico, or any citizen or soldier of the same, nor against any of the authorities, local or national. I was released through the personal influence of a Mr. Oranger, who had to promise payment of the said fine; no good reason ever having been given me for my arrest or release. I had frequently applied to the proper military and civil authorities of Mexico, both in Sinaloa and Durango, for redress and protection against the violence stated, but was rudely denied by both in every case, and could get neither; and these threatened acts, and the acts of violence, were encouraged and connived at by said authorities, if not actually instigated by them, which last I believe to be the fact also. By reason of these facts it was very difficult to keep men there at work, and the prosecution of the work was greatly hindered and delayed, and it finally became utterly impossible to continue the mining operations of the company; and I was compelled, with my men, to give up the same entirely, and to abandon the mines and all the mining implements and property of the company, to save our lives. I cannot state dates and names with any degree of certainty. Mexican names are hard for me to remember. The Imperialist soldiers, and citizens sympathizing with their cause, also threatened and interfered with us, for the reason, as they stated, that we were in sympathy with the legitimate Government of Mexico under President Juarez. Said interference occurred at various times during the whole progress of the work while I was superintendent, and we were finally compelled to abandon the company's mines and property, about March twentieth, eighteen hundred and sixty-eight.

20 The military authorities of the liberal Government of Mexico, or those acting in that capacity, seized upon our mule trains on the road from Mazatlan to our mines in the State of Durango, loaded down with provisions and stores for the use of the employees of said company, and they, the military, appropriated them to their own use, upon the plea that they were not provided for, and must have them as a military necessity.

Large numbers of our mules, and thousands of dollars worth of our stores and provisions, were captured in this way by the said military, during the progress of the war there.

And finding it little or no better at the close of the hostilities, indeed it was even worse in the mines, for then they seemed to turn their whole attention to what they called a purpose on our part to annex Durango to the United States. And it was in vain that we protested that we had no such intention.

The report had become general, and we were so harassed that it was impossible to continue our work with safety, as I have before stated.

The military under Maximilian frequently captured our mules and stores in the same way, and shamefully abused our men, who were conducting the trains; they assigned as a reason for so doing that we, the said company, and its employees, were

Republicans, and hostile to the interests of their so-called Imperial Government, which was true.

And so, between the two fires, we had no protection, neither of the contending parties respecting our rights under the law, but both of them robbing us. Large quantities of silver ore was taken or stolen from our mines after we had taken it out, and such were the threats against us, that we did not dare to go out and defend it, as we would have been in great danger of losing our lives by so doing. The ores so taken were the very richest, and those containing the largest amount of silver.

The captures or robberies of our mules and stores, of which I have spoken, occurred at various times during the latter part of 1866, and the early part of 1867; that is, the most of them occurred during the times stated, and principally by the liberal authorities.

Question number eight. After that abandonment, what further was done by said company or by you, as their superintendent in said mines?

Ans. Nothing by me, and nothing further by the company, so far as I know.

Question number nine. Why was nothing further done by you and by said company?

Ans. Because I did not dare to return and resume mining operations there. I was, and am satisfied that I could not do so with safety to the life of myself or my workmen, or with safety to the property of said company, such was the hostile feelings or prejudice against said company as citizens of the United States, and further prosecution by said company of mining operations there, both on the part of the citizens and the local and national authorities of the Mexican Republic, and the violent acts resulting from that feeling and prejudice, being encouraged and connived at by said authorities, as I have stated. And I returned to the State of New York, and advised said company that it was useless to attempt any further working of said mines, and gave them the facts above stated as my reason for that advice; and I understand that said company was so advised by others, who were citizens of Mexico.

Question number ten. What was the work done by said company at said mines, and being done by said company, through you, as superintendent, at the time you were compelled to abandon the mines, as above stated?

21 Ans. Opening of the mines "La Abra," excavating and constructing mill races, building a mill house, erecting a ten-stamp mill and machinery, building store-houses, dwelling houses, blacksmith shops, stables, "patios," tanks and reduction works, getting out silver ore, and generally doing the requisite work and constructing the requisite machinery and works preparatory to a thorough working of the said mines, and reduction of the ores taken from the same.

Question number eleven. How much money was expended by said company in and about the work which was done by them at said mines, and in the purchase and erection of mills, storehouses, dwelling houses, shops, and other buildings, machinery, mining implements, &c., which you have mentioned? State fully, if you know.

Ans. Said ten-stamp mill was purchased in San Francisco, California, and it cost said company to buy it and place it on the ground at their said mines, over sixty thousand dollars in gold; said company expended on said mill-house and other things pertaining thereto, over fifty thousand dollars in gold, and the precise amount expended by said company for mules, mining implements, mining stores, labor, and transportation of provisions, stores, and other necessities, in and for the opening of their said mines, and construction of their mill races, river dams, tanks, reduction works, &c., and erection of machinery, I do not know, but the same is not less, I believe, than two hundred and seventy thousand dollars in gold, and may have been very much more than that amount. The only mode of transporting their mill, machinery, provisions, and materials, was on mules' backs, and that was a very expensive and tedious mode of transportation, and especially in that country, through those terrible "cañons" and over the mountains, one hundred and sixty miles interior from Mazatlan.

Question number twelve. What was the character of the mines "La Abra," belonging to said company, as to the quantity and purity of the ores of the same?

Ans. Said mines were the richest silver mines I ever saw, and, as I believe, were the richest silver mines in the State of Durango. The silver ore was abundant, and as tested by myself, and by a Mr. Elder, a practical assayer, contained and yielded from two hundred to fifteen hundred dollars per ton of pure silver, together with about ten per cent. of gold.

Question number thirteen. What was the effect upon the interests, and especially the stock of said company, by the forced abandonment of said company's mines and property, for the reasons you have given?

Ans. As the company was not allowed to continue its mining operations it was virtually ruined, and when the fact and reasons of the forced abandonment of their mines became known, the stock of the company became valueless, and it could not have been disposed of at any price, as I believe.

Question number fourteen. From your knowledge of said mines and the condition of the mining operations and works of said company at said mines, how much silver, in your opinion, could have been taken from said mines by said company, had the operations of the company not been interfered with, and its employees had been free from the interruptions and molestations you have above detailed, and said company had been allowed to work said mines to the present time?

Ans. That, of course, would have depended upon circumstances, but with no more than ordinary accidents, and with as good weather as we had when I was there, I should say the company could have taken out silver ores, in addition those we had out at the time of said abandonment, and reduced them to silver to the amount of at least one and one half millions of dollars, over and above the cost of mining and reducing the ores. At the time of said abandonment, we had dug out, and at the company's mill, I should say between six hundred and fifty and seven hundred and fifty tons of silver ore, and we had dug out at the various mines, but not yet taken to the mill, I should say two hundred and fifty tons more. Those ores would have yielded the company, above the cost of reducing them to silver, in my opinion, one million of dollars.

Question number fifteen. From your knowledge of the affairs and property of said company, and especially of said mines, and of the effect of said abandonment upon the interests of said company, what, in your opinion is the amount of the damage sustained by said company, by reason of said forced abandonment of said mines and property, as detailed by you?

Ans. I should think the damage would be the amount of money the company had expended, with interest, including a fair allowance to its officers, and the value of the ores which the company had out at the time of said abandonment, and what they would ordinarily have realized from the mines from that time to this, above their expenses. Considering such their damages, in my opinion the total damages sustained by the company is not less than three millions of dollars.

Question number sixteen. Have you any interest, direct, contingent, or otherwise, in the claim of said "La Abra Silver Mining Company" against the Republic of Mexico, and to support which your testimony has above been taken?

Ans. None whatever of any kind or nature; all my claims against said company have been fully paid by them.

Question number seventeen. Are you the attorney or agent of said "La Abra Silver Mining Company," or of any person having an interest in said claim?

Ans. I am not. I have no connection with them in any way, and have had no business relations with said company, except that of superintending their said mines, as I have before stated; and as that has long since been settled, I have no interest in them, and have no feeling in the matter of this claim against Mexico, and no kind of interest in its result, directly or indirectly.

Question number eighteen. What was the political condition of the Republic, or United States of Mexico, at the time you were living there and superintending the operations of "La Abra Silver Mining Company"?

Ans. The political condition of Mexico was at that time very bad; it was in a state of war. A civil war was at that time going on in Mexico, to some extent, and in addition to that, Mexico was then invaded by French troops, who were endeavoring to support an Imperial Government under Maximilian.

Question number nineteen. What was the attitude of the said "La Abra Silver Mining Company" towards the then contending parties, or forces in Mexico?

Ans. The said Company was at all times loyal and faithful to the interests of the legitimate Government under President Juarez, the present Chief Magistrate of that Republic. The company was, and is now, composed of American citizens, and I can

not conceive of any other attitude for them than that of loyalty and faithfulness to President Juarez and the Republic. We were all anxious for the overthrow of Maximilian, the expulsion of the French troops, and the re-establishment of peace under President Juarez and the Republic.

Question number twenty. What just cause, if any, was there for the treatment received by said company and their employees, from the authorities and citizens of Mexico, as detailed by you?

Ans. None whatever, to my knowledge or belief; neither myself, nor said company, nor any member or operative of the same, to my knowledge or belief, ever molested or interfered with any of the authorities of Mexico, local or national, civil or military, nor any of the citizens of Mexico, nor disobeyed any of the laws of Mexico, while I was so superintending there. The report circulated to the disparagement of the company, that the company, or any member or person acting for the same, intended to advocate or aid the annexation of Durango or Sinaloa to the United States of America, had no foundation in fact, and there was not even a decent pretext for the molestation of, and interference with the company by the authorities and citizens of Mexico, which I have mentioned.

Question number twenty-one. How many men, in all, were employed by said company, during the time you superintended their said works at Tayoltita?

Ans. From thirty to one hundred and fifty employees in all; sometimes the rainy weather prevented our working a larger number, and frequently we were so harassed by the citizens and authorities, as I have before stated, that we were compelled, for weeks at a time, to keep only the smaller number.

(Signed)

CHAS. H. EXALL.

Subscribed and sworn to before me, this second day of December, A. D. 1869.

(Signed)

GEORGE G. BARNARD,
Justice Sup. Court.

UNITED STATES OF AMERICA, STATE OF NEW YORK,

City and County of New York, as:

George W. Hardie, of New York city, being publicly and duly sworn according to law, to tell the truth, the whole truth, and nothing but the truth, deposes and says as follows: I reside at 137 East Twenty-first street, in the city and State of New York; I know Charles H. Exall, who has made the foregoing deposition; that he is a credible witness, and his deposition is entitled to full faith and credit; that I have no interest in the claim to which the foregoing testimony of said Exall relates, and that I am not the agent or attorney of any person having such interest.

(Signed,)

G. W. HARDIE.

Subscribed and sworn to before me this 2d day of December, A. D. 1869.

(Signed,)

GEORGE G. BARNARD.

In original this follows the certificate of George G. Barnard, which it here precedes.

UNITED STATES OF AMERICA, STATE OF NEW YORK,

City and County of New York, as:

I, George G. Barnard, a justice of the supreme court of the State of New York, do hereby certify that Charles H. Exall, whose deposition is herein above contained, attended before me on the 2d day of December, 1869, at the county court-house, in the city of New York, and was publicly and duly sworn by me, according to the laws of the State of New York, to tell the truth, the whole truth, and nothing but the truth; and thereupon he deposed and testified, in answer to the foregoing questions, as hereinbefore set forth; that said deposition was carefully read to said

24 Charles H. Exall by me, and that he thereafter signed the same in my presence.

I do further certify that said deposition was taken by me in the city of New York, in the State of New York, in the United States of America; that I am competent by the laws of said State, and of the said United States to take depositions; that I have no interest in the claim to which the testimony of said Charles H. Exall in said deposition relates, and that I am not the agent or attorney of any person having such interest.

I do further certify that said deposition was reduced to writing by Henry Snell, in my presence, who has no interest, and is not the agent or attorney of any person having an interest in the said claim.

And I do further certify that I do not know the said Charles H. Exall, but do know George W. Hardie, who certifies below, upon oath, to the credibility of said Charles H. Exall; and I hereby certify to the credibility of said George W. Hardie.

(Signed,)

GEORGE G. BARNARD,
Justice Sup. Court.

Doc. No. 8.

In the matter of the claim for damages of La Abra Silver Mining Company against the United States of Mexico under the convention between the United States of America and the United States of Mexico, of July fourth, one thousand eight hundred and sixty-eight, to be submitted on the part of the United States of America to the commissioners appointed under that convention.

Deposition of Alfred A. Green, a witness on the part and behalf of said La Abra Silver Mining Company, taken before Hon. George G. Barnard, a justice of the Supreme Court of the State of New York:

UNITED STATES OF AMERICA, STATE OF NEW YORK,

City and County of New York, as:

Alfred A. Green, being duly sworn according to law, deposes and says as follows, to wit:

My name is Alfred A. Green; my age is forty-one years; I was born in the village of Norton, in the province of New Brunswick, in British North America; my occupa-

tion is that of a miner; my residence I claim to be at San Dimas, district of San Dimas, in the State of Durango, in the United States of Mexico, although I am not permitted to live there at present, having been driven from the country; my family are now residing at San Francisco, in California; I am here in the city of New York, transiently on business.

For the greater part of the twenty years last past I have resided in the Republic of Mexico, and during that time I have held several important commissions from the State authorities of some of the Mexican States. In the year 1859, I was commissioned jointly with Don Urbano Gomez, by General Ogazon, then the civil governor of the State of Jalisco, and the military governor of that State and the State of Colima, to raise material aid for the cause of President Juarez, against the so-called "Church party" of Mexico, and I rendered the State some service in that respect. Afterwards, while residing at Mazatlan, in Mexico, I was appointed by the late General Patoni, who was then governor of the State of Durango, commissioner of emigration for that State, and also by the governor of Sinaloa to the same position for that State, and as such commissioner I went to California and induced a large mining emigration to those two States, the emigrants investing in those two States, principally in silver mining, a large amount of capital, as nearly as I could ascertain

25 about ten millions of dollars. Afterwards, and sometime in the early part of the year eighteen hundred and sixty-five, while residing in the State of Durango, and after that State had been invaded by the so-called Imperialists, having been taken prisoner at El Rosario by the traitor, General Lozado, and sent to Mazatlan, with "permission to go seaward," I went "seaward" by the first steamer to California. About that time I was commissioned to assist General Gasparo Sanchez Ochoa, in the Liberal cause, and especially in securing moral and material aid for the Government of Mexico, under President Juarez. Through my exertions the Monroe League was organized at San Francisco, from which my brother, Colonel George M. Green, an officer of the Mexican army, took sixty American officers and men, armed and equipped, to Mexico, to assist the Liberal cause under President Juarez. In October, eighteen hundred and sixty-five, acting under the instructions of said commissioner, General Gasparo Sanchez Ochoa, I went to the city of New York, and was a part of the time occupied in writing and publishing a work entitled the "Vindication of Liberal Mexico." In December, eighteen hundred and sixty-seven, or January, eighteen hundred and sixty-eight, I returned to Mexico, and from that time to the last of December, eighteen hundred and sixty-eight, I resided in the district of San Dimas, in said State of Durango, and was engaged the principal part of that time in mining operations at the mine "San Louis," in that district, and my occupation at that time was mining. I then owned, and still own, twenty-two and one-half twenty-fourths ($22\frac{1}{4}$) parts of that mine, and I am also largely interested in other mines in that district.

I know the mines called "La Abra," in the State of Durango. It is situated at Tayoltita, in the same district of San Dimas. I also know "La Abra Silver Mining Company," the company that owned and worked said mines "La Abra." I am well acquainted with some of its officers, and many of its stockholders. They are all, as far as I know them, citizens of said United States of America. In January, February, and March, eighteen hundred and sixty-eight, I was frequently at said mines "La Abra." It is distant about two Spanish leagues from my said mine "San Louis." I saw and knew what said "La Abra Silver Mining Company" had done and was doing at its said mines "La Abra." That company had erected, constructed, and built, and had in progress of erection, construction, and building, sheds, stables, dwelling-houses for its employees, a stamp mill-house, reduction works, tanks, "patios," blacksmith shops, a ten stamp mill, and machinery for the same, also large mill races, and was excavating, and had got out and was getting out a large quantity of silver ores, in short, was doing everything requisite to a working of said mines on a grand scale, and in the most effective manner. The company had a large number of men in its employ, though the number was not uniform—sometimes more and sometimes less. Charles H. Exall was the company's superintendent at that time. I am well acquainted with him; he is a citizen of the United States of America.

That company was hindered and delayed in the progress of its work, and was finally driven off and compelled to abandon its mines, ores, and property, by the acts of the authorities of Mexico. In January, eighteen hundred and sixty-eight, at San Dimas, I heard some Mexican citizens, in the presence of the "Juez" of that place, declare that they would kill or drive away all the men of that company, and the threat was

26 applauded by the "Juez." One of the men of that company was killed by some Mexican soldiers of the Republic of Mexico, near El Toro, State of Sinaloa, while on his way to the company's mines from Mazatlan, with a mule-train of supplies for the company, and the mules and supplies were taken by the soldiers. I did not see the act done, but know that the man was killed, and it was a matter of common report that he was killed by the soldiers, and the mules and supplies taken by them, and sometime after the act I heard one of the officers of the Republican

army of Mexico boast of having taken part in said act, whose name I can not now remember. He avowed the act, and justified it on the ground that the army of President Juarez needed the mules and supplies, and there was no other way to obtain them. In my hearing, some Mexican authorities said that they intended to drive out all the American mining companies, as they had done with the "Candelero Company," and get their mines and property; they were local authorities at San Dimas; amongst the number, I heard the acting prefect and judge of the first instance say so. The same remarks, or similar remarks as those applied to the "Candelero Company," and by the same authorities at San Dimas, were made as to the driving out of "La Abra Silver Mining Company." This was in April, 1868. I speak and understand readily the Spanish language, spoken by Mexicans.

Immediately after said expulsion from the mines Mr. Exall left the country, as his life was not safe there, and the mines and property of the company were abandoned by the company, and up to the time when I was forced to leave San Dimas, in December, 1868, said "La Abra" company had not resumed work.

There was no cause on the part of that company, or its employees, that I knew or could hear of, for those acts against the company. Mr. Exall, the superintendent, was a very peaceable, quiet, and law-abiding man.

After the expulsion of said "La Abra Company," which I have mentioned, in March, 1868, Mexicans were engaged in carrying off its ores, and it would have been impossible for the company to have returned and continued its mining operations. Any persistent attempt to do so, I am sure, would have only resulted in the killing of the superintendent and his officers. My long residence in Mexico, and my ability to converse in the Spanish language, and the interest which I had taken in the Liberal cause, and services I had rendered it, (which were well known in the State of Durango,) enabled me to mingle freely with the inhabitants, and for a long time, and until a short time before I was driven away from San Dimas, I was regarded by most of the Mexicans more as one of them than as a foreigner, and matters were talked of by the citizens before me as freely as if I had been a native-born Mexican, and I know well the state of feeling of the citizens of the State of Durango, and the Mexican authorities, civil and military, against foreigners in general, and citizens of the United States of America (or Americans, as they were called) in particular, at and subsequent to the commission of the acts against said "La Abra Silver Mining Company," which I have mentioned. It was very bitter, and ended in open hostility and violence. The report was industriously circulated that the object of the Americans, and especially "La Abra Company," was to annex Durango, Sinaloa, and other border States to the United States of America. Such, I know, were not the views or aims of Mr. Exall, nor of other Americans in charge of neighboring mines, whom I knew. The report was circulated to inflame the more ignorant classes. The real object, it was evident, was to get possession of the mines and property of the American companies, and the benefit of their expenditures.

27 On several occasions, in January, February, and March, 1868, in San Dimas district, I have heard Mexican citizens and authorities say that they meant to drive out and kill off all the Americans, and get their mines and property.

This feeling of hatred and hostility was shared by the military authorities and soldiery, and by the local civil authorities, and was encouraged by them. It grew in intensity and boldness until it culminated in open violence and forcible dispossession of "La Abra" and other companies. Several other American companies, besides "La Abra," were driven off in a similar way. Any attempt to obtain restitution or protection from the authorities was vain, and only increased the personal danger. The feeling became so general against all foreigners having mines that at last it extended to me, notwithstanding my long residence and services. I was arrested in said San Dimas, by order of Camilo Perez, judge of the first instance, on a fictitious charge, and imprisoned for about thirty days, and when I got my liberty found that my mine "San Louis" had been seized, and was in possession of some Mexican citizens and authorities. I applied for redress to the civil authorities at San Dimas, Gabilanos, and at the capital of the State of Durango, without being able to get any protection or restitution of my property. Through the influence of some friendly Mexicans with Camilo Perez, he released me.

I went to Durango, the capital, for restitution and protection, but did not find Governor Palacio, as he had gone to the city of Mexico. I applied to the next in authority, and failed to get from him any protection. In December, 1868, the "Juez de Paz" of San Dimas, or justice, summoned before him some of the parties who had taken possession of my mine and property, and thereupon the demonstration of said parties became so great and violent, threatening the magistrate for his interference with them, and to take my life if he did me justice, that the magistrate was overawed, and told me that nothing could be done for me and my friends; and said justice advised me that my life was no longer safe there, which I believed to be the fact, and to save it I left the country.

From my knowledge of the feelings of the citizens and authorities in San Dimas,

and the situation of affairs there, and from my own case, I am confident that after the acts against said "La Abra Company," any effort on the part of said Exall, or of any one else for said company, to continue mining operations would have resulted in his or their death by violence. In the foregoing statements, owing to not having my papers here, official and unofficial, I am not able to give the exact dates or names in all cases, but have given the same according to my best recollection, and have also given the names of the Mexican officers and authorities, so far as I have known them and can now remember them.

I am well acquainted with said mines "La Abra," and with the quantity and richness of its ores; the silver ores were abundant, and were rich in silver, and would yield, in my opinion, from one hundred dollars to two thousand dollars of pure silver per ton of ore, and in those respects it was reputed to be the second best mine in the State of Durango. When said "La Abra Company" was compelled to abandon its mines and property, as I have stated, it had dug out and ready for reduction a very large quantity of silver ores—in my best judgment—more than one thousand tons. This would have yielded the company over and above the cost of its reduction, several hundred thousand dollars worth of pure silver; from my knowledge of the ores of 28 that mine, I should say at least a half a million of dollars. I am well acquainted with the cost and value of mining labor, materials, stamp-mills, machinery, constructions, and erections for mining purposes in the State of Durango, and transportation in Mexico in and prior to the year 1868, and, in my opinion, the stamp-mill, machinery, mining structures and works which I have mentioned as having been, and being done by said "La Abra Company" in January, February, and March, 1868, were worth, and were of the value of, when said company was compelled to abandon them in the latter part of March, 1868, not less than three hundred thousand dollars gold. In my opinion, they must have cost the company that sum, or more. From my knowledge of mining and of said mines "La Abra," and of the facilities of said "La Abra Company" for carrying on its mining operations, in my judgment that company could have taken from its mines silver ores and reduced them to silver to the value at least of one and one-half millions of dollars, over and above the cost of mining and reducing the same, between the first day of April, 1868, and the first day of December, 1869, if said company had been left free from outside interference, and had not met with more than the usual and ordinary difficulties and obstructions incident to mining in that region.

I have no interest of any kind or nature, direct, contingent or otherwise, in the claim of said "La Abra Silver Mining Company" against the United States of Mexico, to support which my testimony is now taken and given; nor am I the agent or attorney of said company or of any person having any interest whatever in said claim; nor have I any prejudice or hostile feelings against the authorities or people of Mexico, but, on the contrary, I still cherish for them a warm feeling of friendship and sympathy.

(Signed)

ALF. A. GREEN.

Subscribed and sworn to before me, this 13th day of December, A. D. 1869.

(Signed)

GEORGE G. BARNARD, J. S. C.

UNITED STATES OF AMERICA, STATE OF NEW YORK,

City and County of New York, ss:

I, George G. Barnard, a justice of the supreme court of the State of New York, do hereby certify, that Alfred A. Green, whose deposition is hereinabove contained, attended before me, on the thirteenth day of December, A. D. 1869, at the county courthouse, in the city of New York, and was publicly and duly sworn by me, according to the laws of the State of New York, to tell the truth, the whole truth, and nothing but the truth, and thereupon he deposed and testified as hereinbefore set forth; that said deposition was carefully read to said Alfred A. Green by me, and that he thereupon signed the same in my presence.

I do further certify that said deposition was taken by me in the city of New York, in the State of New York, in the United States of America; that I am competent, by the laws of said State and of the United States, to take depositions; that I have no interest in the claim to which the testimony of said Alfred A. Green in said deposition relates, and that I am not the agent or attorney of any person having such interest.

I do further certify that said deposition was reduced to writing by Michael Phillips, in my presence, who has no interest, and is not the agent or attorney of any person having an interest in said claim.

29 And I do further certify that I do not know the said Alfred A. Green, but do know William R. Gorham, who certifies below upon oath to the credibility of said Alfred A. Green, and I do hereby certify to the credibility of said William R. Gorham.

(Signed)

GEORGE G. BARNARD,
Justice Sup. Ct.

UNITED STATES OF AMERICA, STATE OF NEW YORK,
City and County of New York, ss:

William R. Gorham, of New York City, being publicly and duly sworn according to law to tell the truth, the whole truth, and nothing but the truth, deposes and says, as follows; I reside at No. 135 west 26th street, in the city and State of New York; I know Alfred A. Green, who has made the foregoing deposition; that he is a credible witness, and his deposition is entitled to full faith and credit; that I have no interest in the claim to which the foregoing testimony of said Green relates, and that I am not the agent or attorney of any person having such interest.

(Signed)

WM. R. GORHAM.

Subscribed and sworn to before me, this 13th day of December, A. D. 1869.

(Signed)

GEORGE G. BARNARD.

Doc. No. 25.

In the matter of the claim for damages of La Abra Silver Mining Company, against the United States of Mexico under the convention between the United States of America and the United States of Mexico, of July fourth, one thousand eight hundred and sixty-eight, to be submitted on the part of the United States of America to the commissioners appointed under that convention.

Deposition of George C. Collins, a witness on the part and behalf of said "La Abra Silver Mining Company," taken before Hon. Calvin E. Pratt, a justice of the supreme court of the State of New York.

Said George C. Collins, being duly sworn according to law, deposes and says as follows, to wit: I am sixty-one years of age; I was born in South Hadley, Hampshire county, Massachusetts; I reside in the city of New York, in the county of New York, and State of New York, and have resided here since the year 1842.

I am a wholesale tea merchant, doing business in said city of New York, and during all the time hereinafter mentioned was such merchant, doing business at said city.

I am the President of "La Abra Silver Mining Company," and have been since October 23, 1866. Said company was incorporated November 21, 1865, under and pursuant to an act of the legislature of the State of New York, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical, or chemical purposes," passed February 17th, 1848, and the several acts extending and amending said act; and one of the objects for which said company was incorporated was the mining of argentiferous and other ores in Mexico. The principal office of the company was and is in the city of New York.

Said company purchased the following-named mines and haciendas in Mexico, to wit: The mines Rosario, La Luz, El Cristo, Los Inocentes, 550 feet of the mine Nuestra Señora Guadalupe, 22 equal undivided 24th parts of the mine La Abra, and the haciendas St. Nicholas and Guadalupe, and the water power appertaining thereto, all situate at Tayoltita, in the State of Durango, and the mines La Arrayon, El

30 Sous and La Talpa, situate in La Talpa mountain, in the State of Sinaloa; and the following-named mines were denounced by Thomas J. Bartholow, as superintendent of and for said company, viz: San Felipe, San Antonio, and Bartholow, all situate at Tayoltita aforesaid. The said mines situate at Tayoltita were commonly known collectively by the name of "La Abra Mines." Prior to the purchase of said mines and property said Bartholow and David J. Garth (both of whom are stockholders in said company) were sent to Mexico by the parties forming said company to examine, and if desirable to purchase the same. They purchased them, and by advice, took the deeds in their own names, though in fact, in trust for said company; they paid for the same with the means which the company have furnished, and they subsequently duly conveyed the same to said company.

All the said mines and haciendas which were purchased by said company, except the $\frac{1}{4}$ parts of the mine La Abra, were purchased of and conveyed by Don Juan Castillo de Valle and Don Ygnacio Manjarres, by deed dated at Mazatlan, September 25, 1865, for fifty thousand dollars, and said $\frac{1}{4}$ th parts of said mine La Abra, were purchased of and conveyed by J. V. Hardy, by deed dated at Mazatlan in July, 1865, for twenty-two thousand dollars.

Said company obtained from subscriptions for and sales of its stock two hundred and thirty-five thousand dollars (\$235,000), and there have been lent and advanced to and paid for said company sixty-four thousand two hundred and ninety-one dollars

and six cents (\$64,291.06) more, making a total of two hundred and ninety-nine thousand two hundred and ninety-one dollars and six cents (\$299,291.06), and this amount was expended by said company in the purchase of said mines, as aforesaid, and in the purchase of supplies, mules, machinery, and a ten-stamp mill, to be used at said mines, and for transportation of the same, and in the construction and erection of said mill, machinery, houses, dam, raceway, and mining works generally at said mines, and in work upon said mines and the extraction of ores therefrom.

The said company justly owe for office rent and expenses, salaries of officers, attorney and counsel fees, court legal expenses, forty-two thousand five hundred dollars (\$42,500), and that said sums, with interest thereon to September 1st, 1870, amount to four hundred and thirty-seven thousand and sixty dollars and fifty-nine cents (\$437,060.59).

Said company abandoned their said mines, works, silver ores extracted, and property, in March, 1868, the same at that time being under the charge, control, and supervision of Charles H. Exall, for said company. Upon said abandonment, and in consequence of it, the stock of said company became wholly valueless, and has so ever since remained, and the said company have wholly lost the moneys so expended and owing by said company and the profits which they would have realized from said expenditures.

Said company has not made any dividend, nor received any returns, nor been reimbursed for said expenditures, in whole or in part, and the silver ores which said company had extracted from their said mines was their reliance for getting back the moneys so expended and owing by them, said company.

As to the circumstances causing and attending said abandonment, the situation and condition of said mines and property of said company at that time, the quantity of silver ore which the company had then extracted at the mines, and its value and the quantity and value of silver ore which the said company could thereafter have extracted, deponent has no knowledge, except what is derived from statements of others, and the depositions of others made in this matter, which deponent believes to be true.

31 In the opinion of deponent, the said mines, improvements, and property (exclusive of ores extracted) of said company, at the time of said abandonment were of the value of about one million of dollars, and that deponent estimates the loss which said company have sustained by reason of said abandonment, at not less than three millions of dollars, including therein the value of the ores extracted at the time of said abandonment, and which might have been thereafter extracted, had said company been left in the quiet possession of said mines and property, as deposed to by others in this matter; deponent, as already stated, having no personal knowledge of the quantity and value of those ores.

The following are the names of the stockholders of said company, all of whom are citizens of the United States, viz: Thomas J. Bartholow, Miss Henrietta Bartholow, J. Wilcox Brown, G. C. Chase, George C. Collins, Isaac C. Day, Thomas Dougherty, M. J. Freedom, Thomas M. Finney, Dabney C. Garth, D. J. Garth, John H. Garth, A. H. Gibbs, George F. Griffith, Irby V. Hardy, William L. Hearn, C. F. Mason, Frederick Mead, Mrs. J. A. Nettleton, S. F. Nuckolls, John D. Perry, William H. Ross, Sydney Shackelford, J. Oswald Swinney, F. Westwray, W. N. Worthington, Montague Ward, White & Earickson.

Deponent is the president of said company, as before stated, but he is not the attorney of said company, nor of any person having an interest in the claim of said company against the Republic of Mexico, nor is he the agent of said company, or of any person having an interest in said claim, unless the fact that he is said officer of said company shall be deemed to make him an agent for said company and its stockholders. Deponent is a stockholder of said company to the amount of five thousand dollars, at the par value of his stock, and he has been paid nothing by said company for his services as said president, and he loaned and advanced to said La Abra Silver Mining Company \$21,145.17, which amount, with the interest thereon, is due and still owing by said company; and that deponent has no interest in said claim of said company against the Republic of Mexico, direct, contingent, or otherwise, except what may consist in the fact that he is said stockholder and president, and the moneys so lent and advanced by him to said company are still owing and unpaid by said company.

(Signed)

GEORGE C. COLLINS.

Subscribed and sworn to before me, this 25th day of September, A. D. 1870.

(Signed)

C. E. PRATT, J. S. C.

[Here follows certificate of Calvin E. Pratt, Justice Supreme Court New York State, to due execution of deposition and to credibility and respectability of witness.]

In the matter of the claim for damages of "La Abra Silver Mining Company" against the United States of Mexico, to be submitted to the commissioners appointed under the convention of July fourth, one thousand eight hundred and sixty-eight (1868) between the United States of America and the United States of Mexico.

Deposition of William H. Smith, a witness on the part and behalf of "La Abra Silver Mining Company," taken before George E. Whitney, commissioner and clerk of the United States circuit court, for the ninth circuit and district of California

UNITED STATES OF AMERICA,

State of California, City and County of San Francisco, ss:

32 William H. Smith, of San Francisco, having been first duly sworn according to law, to tell the truth, the whole truth, and nothing but the truth in the above-entitled cause, deposes and says as follows, to wit:

My name is William H. Smith; my age is fifty-two years; I was born in the village of Whitehall, in the county of Washington, in the State of New York; my occupation is that of a miner; I now reside in the city of San Francisco, State of California, and am a citizen of the United States of America. In the year eighteen hundred and sixty-one, (1861,) in the month of November, I emigrated to the mineral district of San Dimas, in the State of Durango, in the Republic of Mexico, and I followed silver mining, as an occupation, in said district, for several years thereafter. I there became well and familiarly acquainted with the property and mines of "La Abra Silver Mining Company," a company organized under the laws of the State of New York, to work their said mines at Tayoltita, in said district of San Dimas. I owned, and worked to some extent, by Arrastra's and Patio process, a silver mine, called "Tocolota," distant by the road, about five miles from Tayoltita, or said La Abra Company's mines. I was immediately across the river and ravine from said La Abra mines, and I could plainly see the works and mining operations of said company at Tayoltita, from my said mine "Tocolota." I know the said mines, and have been upon them frequently, and all over them. There are a number of veins or "lodes" of silver, intermixed with a percentage of gold, at Tayoltita, all belonging to said mines, now the property, I believe, of said La Abra Silver Mining Company, unless they have been denounced and sold, or unless said mines and property have passed from their possession, by act of the Mexican authorities, or by denouncement, since said "La Abra Company" were driven away and forced to abandon them, which took place in eighteen hundred and sixty-eight, (1868.) I know, and have seen and tested the ores of said company's mines, and I am well acquainted with their quality and quantity as to richness of their ores and abundance of supply. Said mines were well known, and generally spoken of as exceedingly valuable property—one of the richest of the mines of San Dimas. All, or nearly all, of the veins or lodes, of different names, at Tayoltita, were owned by, and constituted the property of said company. They are somewhat famous in history, having been favorably spoken of by Baron Von Humboldt, in his Book of Travels, ("Essai Politique,") and commented upon at length by the British explorer, Ward, in reference to this same "La Abra" property, as follows, (Ward's Mexico, pages 559 and 573:) "The great streets," (of Durango,) "the Plaza Mayor, the theatre, and all the principal public edifices were built by Zambrano, who is supposed to have drawn from his mines at San Dimas and Guarisamey upwards of thirty millions of dollars. A little below Guarisamey, and in the same ravine, in the district of San José Tayoltita, which contains the celebrated mines of 'La Abra,' one of the last worked by 'Zambrano.' It was opened in bonanza, and continued so, to the depth of 100 varas, where the progress of the work was impeded by water, and this was never drawn off, in consequence of the death of the proprietor, (Zambrano,) which took place at Durango in eighteen hundred and seven (1807.) His nephew, at the commencement of the revolution, collected what money he could, by extracting the pillars of all the mines belonging to the house of Zambrano, and fled to the peninsula with the produce. The mine now belongs to Don Antonio Alcade, one of the executors of Zambrano, and would, if worked anew, with a little science and activity, probably yield immense profits. The whole should be undertaken, however, as one negotiation, as in such insulated districts, to make roads and organize supplies for a small establishment, is a very unprofitable task. Of the amount of the silver drawn from the Sierra Madre by Zambrano, during the twenty-five years that he continued his labors, nothing certain is known; but Mr. Glennie, from whose notes I have borrowed the whole of the details given above, states that he himself saw in the books of the custom-house of Durango, eleven millions of dollars, registered as the sum paid by Zambrano as the 'King's fifth,' and this fact was confirmed to me by the Governor, who examined the registers himself, in order to ascertain it. It is likewise corroborated by the number of mines opened at Guarisamey."

33

me, and the surrounding districts, by the *peculiar richness of their ores*, and by the immense wealth of Zambrano, (diminished as his profits must have been by the expenses of working,) of which so many splendid monuments remain," (page 130.) "*These immense riches were derived principally, the five great mines, 'La Candelarea,' (at San Dimas,) 'San Juan Nepomuceno,' 'Cinco Senores,' 'La Abra,' and 'Tapia.'*" On another page, which I have failed to enter upon my note-book, he says, "these mines often yield 20, and even as high as thirty, (30) marks per carga of 300 lbs."

The mines "La Abra" and "Tapia," spoken of in Ward's Mexico, with some adjoining veins or lodes at Tayoltita, are the same that were owned and worked by the "La Abra Silver Mining Company," in whose behalf this deposition is taken. I know nothing of the business of said company, now, nor do I know how much money they expended upon La Abra mines, at Tayoltita; but their expenditures must have been very large in the work of transporting their heavy machinery—a ten-stamp mill, with machinery necessary to put the same upon the ground in proper order for work—all of which, together with supplies of every description for the use of the company and its employees, had to be transported on mules' backs, over the most dangerous cañons, mountains, and precipices—a costly, tedious, and very hazardous mode of transportation—together with the expenses of placing said mill upon the ground, with the requisite machinery for the same. I did not work my mine "Tecalota," with a stamp-mill, for I was not able to purchase the same, and transport it to Durango; but I believe that with a ten-stamp mill and heavy machinery, such as said La Abra Company commenced with, and without anything more than the usual difficulties attending such mining operations, and if such company had been permitted to remain and work their said mines, unmolested and without hindrance, they would have realized from their mines a clear profit of at least one million dollars per annum; and with diligence, and with the full complement of officers and men, they might have realized even larger amounts than I have stated, judging, as I do, from my intimate knowledge of the capacity of said mines, and the richness of their ores. I still claim to be the owner, or part owner, of said mine, "Tecalota," having a half interest in the same, but cannot now, and have not been able to carry on mining operations there since the close of the late revolution, or contest between the so-called "Imperialists" and the Republican, or Legitimate Government, under President Juarez.

Ever since the said war closed, or at least since the latter part of eighteen hundred and sixty-seven (1867,) or early part of eighteen hundred and sixty-eight, (1868,) I could not remain there with safety to person or property; and I am also well satisfied that the superintendent and other officers of said "La Abra Silver Mining Company" could not have remained in said district, as miners; that it would have been impossible for said company to have carried on their said mining operations, beyond the spring of eighteen hundred and sixty-eight, (1868,) when they were compelled to abandon the same; that it would have been hazardous and unsafe to the lives of Mr. Exall, their superintendent, and other officers, and a great risk of any additional capital invested by said company, to have attempted a continuance of said mining operations, owing to the prejudice, jealousy, and hostility of the Mexican authorities to that company, and their expressed determination to "get rid of them in some way," which I know to be the fact as to the then local authorities at San Dimas. The interference of the Mexican authorities, local and national, and citizens, with said American mining operations, by the way of levying illegal demands, issuing illegal and unjust writs of arrest, and otherwise annoying those miners, by making everything difficult in the way of procuring custom-house and other permits for supplies and machinery, which annoyances and outrages were not only perpetrated by said authorities against said La Abra Company, but they were extended to other companies, and individuals working the mines of that district, and, as I am credibly informed and believe, as well in other mining districts of Durango and Sinaloa. These annoyances and hindrances were, in my judgment, evidently designed and perpetrated by said authorities and citizens of Mexico, for the purpose of driving out and compelling the abandonment of said works, and of availing themselves of the great quantities of rich ores already taken out, and the benefit of the large investments made, and outlays of money expended by said "La Abra" company, and other miners, for valuable machinery, and in the work of opening their mines; and also for the purpose of preventing the dissemination of American ideas of government, by association of the peoples of the two nations, as they seemed to fear that such associations would lead to the annexation of Durango, and other border Mexican States, to the United States of America, which latter seemed to be one of the chief causes of their fears, jealousies, and hostilities to said company, and others, composed of citizens of the United States, who were carrying on mining operations there. I know the price paid by said "La Abra Silver Mining Company," for their said mines at Tayoltita. They bought said property, I think, in the early spring of eighteen hundred and sixty-five (1865) to the best of my recollection, but I cannot now state the exact date. Said property contained a number of the richest veins, or lodes of silver ore, intermixed with some gold. They purchased the same

from Don Juan Castillo de Valle, and they paid him fifty thousand dollars, (\$50,000,) in gold, for said property.

I had previously been appointed agent of said property, by said Juan Castillo de Valle, and was authorized by him to visit New York, in the latter part of eighteen hundred and sixty-three, (1863,) for the purpose of raising money with which to work said mines, or in case I should fail in that, then to sell a portion of the same for him. I proceeded to New York at about the time stated, I think the last of November or early part of December, eighteen hundred and sixty-three, (1863,) for that purpose, as his agent, and I there became acquainted with some of the present members and directors of the said "La Abra Silver Mining Company," who subsequently purchased said mines of said Don Juan Castillo de Valle, and organized said company under the laws of the State of New York, I think in the summer or fall of eighteen hundred and sixty-five, (1865.) I held said La Abra property, while in New York, at one hundred and fifty thousand dollars, (\$150,000,) a very low price for it; but failed to
35 realize money to work said mines, and I also failed to sell the same at New York, which failure I attribute to the then disturbed condition of affairs in the Republic of Mexico. A war was then progressing there between the French or Imperialists, as they were called, and the Liberals or Legitimate forces, under President Juarez, and capitalists of New York said they had but little faith in the stability of the Mexican Government, and feared that their investments in those mines would not be properly protected. I promised them the protection, however, of the Liberal army, and Republican citizens of Mexico; which promises I based upon the liberal proclamations put forth by the agents of the Liberal Government of Mexico, and which were published in California, New York, and other parts of the United States, by order of said Mexican agents, General Gaspar Sanchez Ochoa, Colonel Alfred A. Green, and others; but, I regret to state, that the Mexican authorities did not fulfil the pledges of their agents in that respect. I advised General Thomas J. Bartholow, a wealthy banker of Saint Louis, Missouri, whom I met in New York, and David J. Garth, Esquire, a banker, and now wholesale tobacco dealer of New York, to purchase said La Abra property at Tayoltita, which they did do subsequently, but not until after they had, both of them, visited said mines in person, where they became personally acquainted with said Don Juan Castillo de Valle, at Tayoltita, and they there purchased said property of him and paid him for the same, on behalf and for the use of said company, fifty thousand dollars (\$50,000) in gold, as before said.

Before this purchase took place I had already returned home from New York, and my agency for the negotiation or sale of said property had ceased by limitation; and for that reason the property was purchased from Don Juan Castillo de Valle, direct, and I received no commission upon the said sale. Said Don Juan Castillo de Valle had, I know by my own searches of the proper records, a good Mexican title to the said property, and he had good right to sell and dispose of the same. I was not present, and did not witness the purchase, nor the payment of the fifty thousand dollars, (\$50,000) for said property, but I know the fact from the statement of the parties to the purchase and sale of the same, at the time, and have heard said Don Juan Castillode Valle acknowledge the receipt of said fifty thousand dollars, (\$50,000,) and I know Don Juan Castillo de Valle to be a man of high distinction as a gentleman, and a man of large property, and of truth and strict integrity of character, and I believe his word would not be doubted in Durango or Sinaloa, and especially by good citizens where he is best known.

I was not at Tayoltita, and was absent from my said mine, Tecolota, at the time the superintendent, Exall, and other officers of the said La Abra Silver Mining Company were driven from, and compelled to abandon, the said mines and property of said company, but I know the fact from my own knowledge of corroborative circumstances, and from common report, at the time, or soon thereafter, as well amongst Mexican citizens as Americans, that they were so driven away by said authorities, or by their connivance, and compelled to abandon said mines and property sometime in the early spring of eighteen hundred and sixty-eight, (1868.) I think about the last of March, or early part of April, of that year, and I am also satisfied, from the feelings of said authorities, in San Dimas, and their previously expressed threats in my hearing, and determination to drive out and get rid of said La Abra Company, and others who
had made large investment in that district, that it would have been dangerous,
36 if not impossible, for Superintendent Exall, or other American officers of said

"La Abra Silver Mining Company," or any other person acting in such capacity, to have gone back and recommenced mining operations at their said mines, at any time since they were compelled to abandon the same, in eighteen hundred and sixty-eight, (1868,) as aforesaid. I spoke and understood the Spanish language,—which is spoken by all the people of Mexico—well. I was not exactly driven from my said mine, for the reason, as I am satisfied, that said Mexicans had very little to gain by my dispossession, as I had no stamp mill or machinery, was working on a small scale, and had very little ore out for them to take, but I left, as aforesaid, be-

cause of said hostile feelings and jealousies toward Americans, as I felt that my life was insecure there.

I am not in any wise interested in the claim for damages of "La Abra Silver Mining Company," against the Republic of Mexico. I have no interest of any kind, direct or contingent, in the claim of said company against the United States of Mexico, to support which my testimony is hereby taken and given, and I am not the agent or attorney of said company, nor of any person having an interest in said claim. I have no feeling or prejudice against any of the authorities or people of the Republic of Mexico, or any part of the same. I was at all times, when residing in Mexico, and during the war for their existence as a nation, true and faithful to the liberal, or legitimate government of President Juarez, and I still adhere to the same cause, and to that Republic.

I have never known or heard of any word spoken, or act committed by said La Abra Silver Mining Company, nor by any member, officer, or employee, of the same, against the people or laws of Mexico, nor in violation of the same, nor in favor of the annexation of any part of Mexico to the United States of America, nor of any word or act prejudicial to the welfare, stability, or integrity of the Republic of Mexico.

I have been asked by the attorney of said company, to make an estimate, to the best of my judgment, of the damages said company should sustain against the Republic of Mexico, occasioned by the occurrences of eighteen hundred and sixty-seven (1867) and eighteen hundred and sixty-eight, (1868,) as enumerated above, but I cannot undertake, properly, to estimate said damages, even approximately, for the reason that I do not know the amount of money said company have expended for stamp-mill and machinery, necessary to its proper adjustment for work upon the ground at Tayoltita, buildings, mill runs, and other heavy works which were done there by said company, and also for opening said mines and extracting their ores, which were taken out in large quantities and abandoned as aforesaid, but their damages must be heavy, and ought, in my judgment, to be sustained for the full amount of their expenditures and losses, direct and consequential, by reason of acts of said authorities.

This is my own written statement of the facts, as far as I now recollect them, uninfluenced by any other consideration than that of justice to the parties concerned.

And further this deponent sayeth not.

(Signed)

WILLIAM HENRY SMITH.

Subscribed and sworn to before me, this twenty-fourth day of January, A. D. 1870.

(Signed)

GEO. E. WHITNEY,

[SEAL.]

*Clerk and Com. of the U. S. Circuit Court,
for the District of California.*

37 UNITED STATES OF AMERICA, STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, George E. Whitney, commissioner of the United States circuit court, for the ninth circuit and district of California, and clerk of the same, do hereby certify that William H. Smith, whose deposition is hereinabove written, attended before me on this, the twenty-fourth day of January, A. D. eighteen hundred and seventy, (1870,) at the United States circuit court rooms, in the city and county of San Francisco, and was publicly and duly sworn by me in accordance with the laws of the United States of America, and the State of California, to tell the truth, the whole truth, and nothing but the truth, in the above-entitled matter, and thereupon he deposed and testified as hereinbefore set forth; that said deposition was carefully read to said William H. Smith by me, and that he thereafter signed the same in my presence.

I do further certify that said deposition was taken by me, in the city and county of San Francisco, in the State of California, in the United States of America; that I am competent to take depositions by the laws of said State and of the United States; that I have no interest in the claim to which the testimony of said William H. Smith in said deposition relates; and that I am not the agent or attorney of said company nor of any person having such interest.

I do further certify that said deposition was reduced to writing by Hillary T. Burrows in my presence, who has no interest, and is not the agent or attorney of any person having an interest in said claim.

And I do further certify that I know the said William H. Smith, the above-named affiant, as a man of good character for truth and veracity, and I hereby certify to the credibility of said William H. Smith, and that his deposition is entitled to full faith and credit.

Witness my hand and seal of said U. S. circuit court, at San Francisco, in the district of California, this 24th day of January, A. D., 1870.

(Signed)

[SEAL.]

GEO. E. WHITNEY,

*Clerk and Com. of the U. S. Circuit Court,
for the District of California.*

In the matter of the Claim for Damages of "La Abra Silver Mining Company" against The United States of Mexico.

Doc. No. 12.

Deposition of George C. Bissell for claimants.

U. S. CIRCUIT COURT ROOM, DISTRICT OF CALIFORNIA,
CITY AND COUNTY OF SAN FRANCISCO,
3 o'clock P. M., March 11, 1870, as:

Personally appeared before me, George E. Whitney, clerk and commissioner of the United States circuit court for the District of California, George C. Bissell, a witness on the part and behalf of "La Abra Silver Mining Company," the claimants in the above-entitled cause, and having been first duly sworn by me according to law, deposes and makes oath to the following statement, in answer to interrogations by me, in relation thereto, as follows, to wit:

My name is George C. Bissell; I am forty years of age; I was born in Wellington, New Haven county, State of Connecticut, in the United States of America; I am a miner by occupation; I am a citizen of the United States of America; my temporary residence is in the district of San Dimas, in the State of Durango, in the Republic of Mexico. I have had my residence there for the last two years, and was occupied in mining silver ore there, although I have not been in that business or district constantly during that time.

My permanent residence is, and has been for the last eighteen years, in San Francisco, California.

I know well the mines and mining property belonging to said "La Abra Silver Mining Company," organized under the laws of the State of New York, I think, in the summer of 1865; said mines and property were situated at Tayoltita, in the mining district of San Dimas, in the State of Durango, in the Republic of Mexico.

The mines of said company embrace eight veins or "lodes," under different names—"La Abra," "La Luz," "Rosaria," "Tapia," and "Cristo"—are the most prominent, but they were all owned by, and under the works and name of "La Abra Silver Mining Company," aforesaid.

Said company had a ten-stamp mill, and very heavy machinery for the same, upon the ground at Tayoltita, on the Piastla river, or a tributary of the Guariyisemay river, a short distance from said veins or mines.

I was engaged in mining, very near to said "La Abra Silver Mining Company's" works, in the same district. They had heavier works for mining, and larger machinery there, than any in that district, and deponent thinks their machinery and the expense of mining operations, and buildings for the same, are larger, and cost more money, than any other in the State of Durango.

Said "La Abra Company" were broken up there by the bad acts of Mexican authorities, some time in the spring of 1868, in March, or the early part of April, of that year; but deponent was not there at the time, and knows the cause of their being broken up, by the statements of said Mexican authorities at San Dimas, and by Mexican and American citizens, and also by common report soon thereafter.

Deponent has been informed by the most reliable authority, by men whose word or statements are not to be denied or controverted, that said company were interfered with, annoyed, and finally broken up, by the San Dimas and other authorities of Mexico, and by the troops of the Republic, under President Juarez; that they had their trains of pack mules captured by said troops, and the provisions, mules, and supplies, converted to the use of said army; and that on one occasion of said capture, one of the men in charge of the train of pack mules was killed, in order that they might possess themselves of said property for the army.

Deponent was so informed by Macario Olvera, in the fall of 1868, or early in the winter of 1869.

Said Olvera was "prefect" of said mining district of San Dimas at the time he told deponent so.

He was holding a high official position there at the time, and exerted great influence in that district over the people, and over other authorities there.

A prefect in Mexico is high authority, as he exercises both civil and military power in the district.

Deponent, as before said, did not see these last-named acts, but believes them to be true, from the said statement of the said prefect, and also from corroborative circumstances known to deponent, and also from the high character of some of the parties from whom he has received his information of the facts stated.

Mr. John Cole of Camacho, a man of large wealth and of good character, and Charles H. Exall, the last superintendent of said La Abra Silver Mining Company, are two of deponent's informants as to the particulars stated, also some Mexicans there; and any statements made by either John Cole or Charles H. Exall are

reliable, and any man who enjoys their acquaintance would believe anything they, or either of them, might state as a fact.

Deponent further says: "I regard said La Abra Company's mines and other property as one of the very best, and most valuable in the State of Durango; that I have heard, and know by the statements of all parties in and about San Dimas district, that the richest ores belonging to said company, which they had taken out in large quantities at the time they were compelled to abandon the same, had been carried off and sold by Mexicans, and the profits of the same shared by Mexican authorities, by whom those acts were covertly instigated."

Deponent further says: "I know Charles H. Exall, said superintendent of La Abra Company, very well and intimately, and have heard from said Exall his statement as to his expulsion from said company's mines, and I believe the same to be true in every particular, from the character of said Exall as a gentleman of truth, and also corroborative statements from others in that district, at and since the time, as aforesaid, and from other facts known to this deponent."

"The said company must have sustained heavy damages by reason of said forced abandonment, but how much, and to what extent, I do not know, and will not attempt to estimate the same, as I have never had access to the company's books, and do not know all the expenditures and liabilities of said company. I know their damages must have been very large, however—larger than that of any silver mining company in that part of Mexico."

This deponent further says: "It was a common report by Mexicans, whose language I understood and spoke well, that said company were in favor of the annexation of Durango and Sinaloa to the United States of America, and that those reports are still kept up, to which may be attributed a part of the hatred and prejudice of said authorities, which I know did, and does still exist against said La Abra Silver Mining Company, and its superintendents; but I never knew, or heard from any good authority, that said Exall, or any employé or member of said company, ever interfered in political affairs while in Mexico, or ever disobeyed any of the laws thereof, and I believe such prejudice, by said authorities, not well founded, but that it was encouraged by selfishness and the hope of gain by said Mexican authorities, if not absolutely instigated by them, which latter fact, from circumstances known to me, corroborative of the same, I believe to be true of said authorities."

I have lived in California and in different parts of Mexico for about eighteen years, and I speak and understand the Spanish language, and have so spoken and understood the same for more than fifteen years last past.

I am perfectly satisfied that neither said company, nor any officer acting for them, could have ever returned and recommenced said mining operations, with safety to life or capital, since said company were expelled, or forced by the acts aforesaid to abandon the same, in the spring of 1868, nor would it be safe now for said company to attempt to repossess themselves of their said mines and property.

I know the fact that the said prefect of San Dimas, Macario Olvera, was married to, and lived with the daughter of one Guadalupe Soto, who had a lawsuit with said La Abra Silver Mining Company about the title of one of the haciendas belonging to said "La Abra Company's" mining property at Tayolita, and that said company gained the suit, and that said Guadalupe Soto was known as a bitter enemy to said company, and I am satisfied that said prefect of San Dimas shared the feelings of hatred and prejudice by said Guadalupe Soto and family, of which said prefect became a member by marriage, and with whom, as is said, he had for a long time been upon the most intimate terms. I am also satisfied that other Mexican authorities, both local and national, were influenced by said prefect, and it had been determined by said Mexican authorities, at all hazards, to get rid of said company, in some way, and not to permit them ever again to work their said mines.

I have no interest, direct, contingent, or otherwise, in the claim of said "La Abra Silver Mining Company" against the Republic of Mexico, to support which my testimony is here taken, and I am not the agent or attorney of said company, nor of any person having such interest; and upon the happening of no event would I be entitled to any part of the sum which may be awarded said company by the Commissioners.

And further deponent saith not.

(Signed)

G. C. BISSELL.

Subscribed and sworn to before me this eleventh day of March, A. D. 1870.

(Signed)

GEORGE E. WHITNEY,

Clerk and Commissioner of the U. S. Circuit Court, District of California.

UNITED STATES OF AMERICA, STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, George E. Whitney, Commissioner of the United States Circuit Court, for the Ninth Circuit and District of California, and Clerk of the same, do hereby certify

that George C. Bissell, whose deposition is hereinabove written, attended before me on this the eleventh day of March, A. D. (1870) eighteen hundred and seventy, at the United States Circuit Court rooms, in the city and county of San Francisco, and was publicly and duly sworn by me in accordance with the laws of the United States of America, and the State of California, to tell the truth, the whole truth, and nothing but the truth, in the above entitled matter; and thereupon he deposed and testified as hereinbefore set forth; that said deposition was carefully read to said George C. Bissell, by me, and that he thereafter signed the same in my presence.

I do further certify that said deposition was taken by me in the city and county of San Francisco, in the State of California, in the United States of America; that I am competent to take depositions, by the laws of said State, and of the United States; that I have no interest in the claim to which the testimony of said George C. Bissell in said deposition relates, and that I am not the agent or attorney of said "La Abra Silver Mining Company," claimants in the above entitled cause, nor of any person having such interest.

I do further certify, that said deposition was reduced to writing by Richard T. Hill, in my presence, who has no interest, and is not the agent or attorney of any person having an interest in said claim.

And I do further certify that I know the said George C. Bissell, the above-
41 named affiant, as a man of good character for truth and veracity, and I hereby certify to the credibility of said George C. Bissell, and that his deposition is entitled to full faith and credit.

In witness whereof, I, George E. Whitney, Clerk and Commissioner of the United States Circuit Court, District of California, have hereunto set my hand and seal of said Circuit Court, at San Francisco, in said District of California, this eleventh day of March, A. D. 1870.

[SEAL.]

(Signed)

GEORGE E. WHITNEY,

Clerk and Commissioner of the United States Circuit Court, District of California.

Doc. No. 26.

In the matter of the Claim of La Abra Silver Mining Company against the Republic of Mexico. Deposition of James Granger in behalf of claimants. To be submitted to the Joint Commission of the United States of America and the United States of Mexico appointed under the Convention of July 4th, 1868. In session at Washington, D. C.

CONSULATE OF UNITED STATES,

State of Sinaloa, Republic of Mexico, ss:

Personally appeared before me, Isaac Sisson, United States commercial agent, in and for the port of Mazatlan and its dependencies, James Granger, who is personally well known to me, and after having been by me duly sworn according to law, deposes and testifies, in answer to the following questions submitted to him by me, as follows:

Question No. 1. What is your name, age, birth-place, citizenship, and occupation; and where do you now reside, and where did you reside, and what was your occupation from about the 20th of October, 1866, up to the 20th of March, 1868?

Ans. My name is James Granger; I am forty-two years of age; I was born in Scotland, in the kingdom of Great Britain, and I am still a citizen of the same; I now reside in San Dimas, in the State of Durango, in the Republic of Mexico; my profession is that of a miner, but I am now acting as bookkeeper for Ralf Martin, of San Dimas; from October, 1866, to the 20th of March, 1868, I resided at Tayoltita, in the said mining district of San Dimas; my occupation was, then, that of a professional miner; from April, 1867, until March, 1868, I was employed as one of the clerks and assistant superintendent of "La Abra Silver Mining Company," a large stock company of American citizens, then doing business at said Tayoltita.

Ques. No. 2. State the names of the mines belonging to "La Abra Silver Mining Company," of which you were assistant superintendent, the character of said mines, as to richness of their ores, and the quantity or supply of the same; state all you know in relation thereto.

Ans. The names of the mines owned by that company, were "La Abra," "El Cristo," "La Luz," "Animas," "Bartholow," "Aryan," "San," "El Rosario," "San Felipe," "San Antonio," and "Talpa." These mines are all well known, and spoken of as exceedingly valuable mines, and their ores rich in silver, and abundant in supply. Some of them are historical and in the working of them, former owners have realized immense fortunes, and it is pretty well understood by professional miners who have investigated these mines, that the richest of their "lodes," or veins, have yet not been reached, for the want of the necessary expenditures in opening them up, by "tunnel-

ing." Such expenditures are particularly needed in opening "La Abra," and "El Rosario," by tunnels.

42 These two mines have turned out ores that "beneficiated" ten to fifteen marks to the carga, and selected pieces much more, to my knowledge, as *I have tested them myself*, and I believe, if properly tunneled, would yield enormous profits to their owners. The supply of all those mines of "La Abra Company" is, I believe, almost inexhaustible. It is the most valuable property I know of in that district, including all their machinery and improvements.

Question No. 3. Is "La Abra Silver Mining Company," or its officers still there, and yet carrying on their mining operations at Tayoltita?

Ans. No, sir; they have left Tayoltita, and that company is doing nothing there now. They have quit and left the district, and ceased mining operations there altogether.

Question No. 4. When, and in what way did said company quit and cease its mining operations at Tayoltita, and what has become of said company?

Ans. That company was broken up, and compelled to abandon said mines and mining operations at Tayoltita, in March, 1868, and I can not tell you what has become of the company. I believe they are broken up, and their interests destroyed as a mining company; at all events, they abandoned all their mines, provisions, supplies, machinery, buildings, and all other property there in March, 1868.

Ques. No. 5. Why did said "La Abra Silver Mining Company" quit work upon their said mines, and abandon all their works and property at Tayoltita, as stated by you? Answer in a concise manner, and state all you know in relation thereto, giving facts, dates, names and circumstances, so far as you can now recollect them; and state also if you spoke and understood the Spanish language, while in the employ of said company, or could read or write the same.

Ans. I spoke and understood, well, the Spanish language, and I also wrote and read the same while with said company, without difficulty, as I had done for some years, and do now. The said La Abra Silver Mining Company abandoned their mines, hacienda, stamp mill, and reduction works, in March, 1868. I do not recollect the exact day, and they were forced to abandon said mines, and works, from the interference, hindrances, annoyances, and obstructions they had met with in the prosecution of their mining operations, both in the getting up of the machinery and supplies, on the road, by the military of the Republic, and from the various local authorities, which were such as must have convinced them that they never would be able to carry on their mining operations, with any chance of success. I shall proceed to state on what facts I found this statement:

In the latter part of 1865, and in 1866, when they were getting up their machinery and supplies from Mazatlan, it was a matter of public notoriety that they were hindered and delayed by the military authorities of Mexico, and they were subjected by said authorities to "forced loans" or prestamos, and illegal exactions upon said machinery and supplies; one of the captains, or quartermasters of one of the trains of the company, whose name was Scott, commonly called "Scottie," was robbed by the military of the liberal army, on the road from Mazatlan, and while near Camacho; said Scott was in charge of three thousand dollars of the company's money, and said military took from him and converted the same to their own use, eleven hundred and seventy-eight dollars (\$1,178,) and I know that the same has never been returned to said company. Another, by the name of Grove, was foully murdered, I think 43 about the same time. This took place at a point called "Candelero Crick," between San Ignacio and San Dimas.

Said company was also forced to pay "prestamos." A letter was received by Colonel de Lagüel, superintendent of said company, from Colonel Valdespino, of the Republican army of Mexico, dated July 27, 1866, and signed "Jesus Valdespino," which came into my possession as clerk of the company, and which letter has never, since its receipt, passed out of my possession; and I now present the same to the consul, marked "Exhibit Z." This letter demands twelve hundred dollars (\$1,200) from said company for the support of his forces, under his command. It is needless to say the demand was complied with. In June or July, 1867, the "gefe politico" of San Dimas, Marcos Mora, came out to Tayoltita, and he summoned the superintendent of said company, Charles H. Exall, to come before him. I accompanied Superintendent Exall before the gefe, and I heard all the conversation that took place on the occasion. The said gefe, Marcos Mora, seemed much excited, and prejudiced against the company. He told Superintendent Exall that he must "work the mines of the company as he directed them to be worked," and to "work all their mines," or he would "take the mines of the company from them and give them to the people to work on their own account." A large number of the workmen of said La Abra Company, and other Mexicans, were sitting in the portal of the house of Guadalupe Soto, then the local judge there, or "juez," (conciliador,) where the gefe politico had called our superintendent, Mr. Exall, and where this interview was held; and he, the gefe, ordered the doors to be opened, so that the crowd outside might hear him, (of course,)

and in a loud voice, that could be heard by all the people outside, he said that he, Superintendent Exall, should work the mines of the company as he, the gefe politico, had directed, or he would take their mines from them, and give them to the people to work as they pleased, and that he, the gefe, "would not be responsible for any consequences that might result therefrom." He, at the same time, forbid any of the workmen there from working for said company. This created tremendous enthusiasm and excitement with the workmen, and I felt that the result of this talk, which was calculated, if not actually intended, to incite the people to riot and bloodshed, might be the destruction of the company's interests, if not the expulsion of their American employees. I remember particularly the case of a man, whose name was Aquilino Calderon, who, being very anxious to work, had gone up to the mine "El Cristo," and while there employed, three armed men were sent by said gefe, Mora, after him, and he was brought by them before said gefe, who commanded him to work no longer for that company, and warned him that if he again attempted to work for the company he should be arrested and sent to the common jail at San Dimas; and I understand that other men were so threatened in the same way by said prefect.

In the month of December, 1867, or January, 1868, the superintendent, Charles H. Exall, was arrested and imprisoned by the "juez conciliador" of Tayoltita, Nicanor Perez, on a mere pretext, without any reasonable cause whatever. The particulars are as follows: Mr. Exall was occupied in a private room, and in private conversation, and while so engaged, said juez, or judge, Perez, entered the store at the hacienda, and without speaking or asking permission, he passed into a private storeroom adjoining, and Mr. Exall, observing this, stepped to the door of said storeroom,

44 and in a polite manner addressed said Perez, saying that no one was allowed to enter said storerooms without license, and if he had any business to please communicate the same to him. Said Perez came out of said storeroom in a great rage, and asked Mr. Exall if he thought he, Perez, was a thief, or wanted to steal anything. Mr. Exall denied any such idea, and stated that, in requesting him to leave the private storeroom, he was merely carrying out the general rules of the company.

Said Perez would listen to no explanations, and when he went out remarked that he, Exall, should hear from him. About half an hour after, an order came to the hacienda for Mr. Exall to attend, forthwith, before the said juez, or judge, Perez, which order Mr. Exall obeyed, and upon entering said court-room, said Judge Perez commenced a tirade of the most infamous personal abuse of said Exall, without allowing explanation or justification, sentenced said Exall to pay a fine of, I think, about fifty dollars, and imprisonment for two months. Exall was confined in the hacienda until the next morning, when he was sent for by said "juez," who did lock up said Exall in an old empty house, with the declared intention of sending him to San Dimas to complete his sentence. Said judge remarked, at the same time, that he could not permit Exall to ride even his own mule to San Dimas; that he should treat him the same as he would treat any common prisoner.

When I went to visit said Exall in his prison, the next morning, I found him busily engaged in killing fleas that were troubling him. It was a filthy place. By personal influences I brought to bear, and by securing the payment of the fine imposed upon him, I managed to get Mr. Exall released. All the above I witnessed myself. A few weeks after this occurrence, on a Saturday, the superintendent, Exall, received from said Judge Perez an order directing him to attend at his "juez-gado," (court-room,) and the same evening, at seven (7) o'clock, Mr. Exall, in obedience to said order, went to the court-room, where he found assembled a large number of the employees of La Abra Company's mines, and others, and in their presence the said judge proceeded to lecture said Exall upon the manner in which the business of said company should be carried on, and he threatened that if the superintendent or company did not work in the mode and manner to please the authorities they should be deprived of their property, and forced to flee the country; all of which was said in my hearing, and although I have only stated a few circumstances that came under my direct observation, showing the animus of the authorities and people of this district, these are not by any means to be taken as all that took place, nor even as the most vexatious. It was the daily, and almost hourly annoyances and interruptions. Every pretext that could, by any means, be made the basis of a suit or exaction was availed of.

The rich mines, and the large expenditures of this La Abra Company, seemed to have excited the cupidity of the authorities, and they determined to get rid of this company, and to drive them out of the country. I have heard this determination expressed by the "Gefe Politico" of the district, officiating as such at the time, and also by different judges in the district of San Dimas. The universal sentiment of all the Mexican people and authorities there was, that all the mines of the country should be worked and owned only by the natives of the country. As I have said before, this was expressed in my presence and hearing, by Judge Nicanor Perez, and also by another judge at Tayoltita, whose name is Guadalupe Soto, and also by

45 the gefe politico of the district. I am satisfied that said superintendent, Exall,

could not have continued the mining operations of this company any longer than he did, with any hope of security or protection to life, or the property of the company, and that they could not have returned and worked their said mines, since that time, with any hope of such security or protection, judging, as I do, from the past, and my knowledge of the feelings there on the part of said authorities.

Before I entered the service of the company as assistant superintendent and clerk, I heard of a large train of mules, laden with supplies for the company, having been captured by the military authorities of the Republic, and of the disappearance and supposed murder of one of the quartermasters, or captain in charge of the train; and also of "prestamos" levied on other trains of the company, loaded with supplies for the employees at Tayoltita; but of the prestamos upon the mule trains, I have no personal knowledge, but they were matters of general and universal report and belief at the time, and I believe them to be unquestionably true.

I also know that an armed mob of some forty or fifty men, charged on the hacienda of La Abra Company, at Tayoltita, with the expressed intention of killing all the American employees of the company, which mob, it was believed by all of the Americans there at the time, had been incited at the instigation and by the connivance of the authorities, which, I understood, was afterwards ascertained by the company to be the fact.

Another American company in this neighborhood, at Candelero creek, were attacked by an arm mob of Mexicans, two of their officers killed, and others wounded, and the company forced to abandon their property and mines.

Question number six. Would you know and recognize the official signature and handwriting of said Gefé Politico, and Juez Conciliador, Marcos Mora and Guadalupe Soto, if you were to see them?

Ans. Yes, sir.

Question number seven. (Consul Sisson hands to witness the order, purporting to be from the Gefé Politico of San Dimas, dated July 10th, 1867, and marked "Exhibit X," the seal of the consulate attached.) In whose handwriting is this paper, and signature to the same?

Ans. It is the handwriting, body and signature, of Marcos Mora, who was Gefé Politico of the district of San Dimas at the time that order was given. I remember the order very well, as I received it as clerk of the company, and after showing it to the superintendent, Mr. Exall, I filed it away with some other papers of the kind, and subsequently turned it over, together with two or three others from Judge Guadalupe Soto, to the attorney of said La Abra Company.

Question number eight. (The consul hands to witness a paper purporting to be an order from Marcos Mora, dated June 3d, 1867, and marked "Exhibit Y," with the seal of the consulate of Mazatlan attached.) Whose order is this, and in whose handwriting is it written and signed?

Ans. It is a copy of an original order issued by said Gefé Politico, Marcos Mora, and received by Judge Guadalupe Soto, on the 3d day of June, 1867, and by him exhibited to said superintendent, Exall, and myself, and this copy, by request, we were allowed to take from the original. This copy is in the handwriting of Diego Flores, then in the employ of said La Abra Company, at Tayoltita.

I know it to be a true and correct copy of the original, signed by said Marcos Mora, who was at that time the Prefect, or Gefé Politico of the said district of "San Dimas."

Question number nine. (Handing to witness two papers, purporting to be orders to said company from Judge Guadalupe Soto, at Tayoltita, and dated respectively, 4th and 24th of July, 1867, with the consular seal of the United States for Mazatlan, attached.) Whose orders are these, and in whose handwriting are they written and signed?

Ans. They are orders issued by Guadalupe Soto, who was the juez conciliador, or local judge, of Tayoltita at that time; both body and signature are in the handwriting of said Guadalupe Soto.

Question number ten. What amount, or quantity of silver ores were taken out and abandoned by said company, in March, 1868, and what has become of said ores? State all you know bearing upon that subject.

Ans. I think about seven thousand cargas, or what Americans would call a little over one thousand tons, all the richest and best of which has long since been picked out and carried away, i. e., stolen by Mexicans.

Even while Superintendent Exall was still there trying to carry on the works of the company, this tearing down of the ores of the company, where it was piled up, within the enclosures of the hacienda, and the culling out of the richest pieces, and stealing and packing away the same by Mexicans, in sacks, was going on almost every night, and sometimes in open daylight, and that too with impunity and defiance, and Superintendent Exall did not dare even to go out or attempt a defence of the same, as it probably would have cost him his life to do so, for it seemed to be well understood by Mexican workmen in Tayoltita, that those acts were "winked at," if

not actually instigated, by the authorities, both of the District and "Cuartel," or Pueblo; and it may not be out of place to state, in this connection, that Macario Olvera, the Gefé Politico of said District of San Dimas at the time the company were driven out and abandoned their said works, was an intimate friend of Judge Guadalupe Soto, and exceedingly intimate with his family.

Macario Olvera succeeded Marcos Mora in the office of Gefé Politico, (Prefect) a few months before said abandonment by the company.

Question number eleven. What was the character of works put up at Tayoltita by said company, and what preparation had been made for mining and reducing ores by that company, and what was the cost of the same?

Ans. They had brought to Tayoltita, from San Francisco, California, a large and first class ten-stamp mill, with all the machinery pertaining thereto for the reduction of silver ores, which stamp-mill and machinery had been erected and set up in a large and expensive mill-house, built for the same, together with mill races, mill dam, and ditch, a large and fine hacienda, store-houses, blacksmith-shop, and other necessary outbuildings. In fact, they had completed, at the time they were forced to leave there, everything that could be required for carrying on silver mining, and the reduction of silver ores, upon an extensive scale, all at an expense of about three hundred thousand dollars, (\$300,000,) or a little more perhaps. I cannot, without access to the books of the company, in New York, state the exact amount of money paid out by the company, as the hacienda has long since been sacked of books, receipts, invoices, and other papers, furnishing the necessary data upon which to make anything like an exact statement on the subject.

47 Question number twelve. What is the power and authority of a Prefect, or Gefé Politico, in this country?

Ans. He is the chief power in his district—civil and military. I may almost say that he has absolute power, for experience, in Mexico has long since taught me that no man, in any district, dares to oppose the will of the Prefect.

Question number thirteen. Were any of the authorities, local or national, civil or military, in the mining regions of Mexico, and especially in San Dimas district, in favor of extending protection or security to American companies engaged in working said mines, so far as you know?

Ans. No, sir; they are bitterly opposed to it; as I have before said, they are all in favor of seeing the mines of Mexico in the hands of, and worked by Mexicans. I have heard that the two Prefects of San Dimas, that I have named, Marcos Mora and Macario Olvera, say so, while they were officiating as Prefects there, and I have often heard Judge Guadalupe Soto, of Tayoltita, say so. The last named authority I have heard say much more on the subject, as applied to "La Abra Silver Mining Company." The fear of annexation to the United States of America, seems to influence or increase their prejudices in this respect. I know that the prejudice of Mexican authorities against "La Abra Silver Mining Company," in this respect, was exceedingly unjust, and without foundation in fact—in any conceivable respect—for no member or officer of that company ever interfered in any way, directly or indirectly, in the politics of this country, or even talked of annexation, so long as I was with them, or so far as I could learn from any quarter; they were all peaceable, law-abiding men.

Question number fourteen. You speak of having heard Judge Guadalupe Soto say something more than you have stated, on the subject of having the mines of Mexico owned and worked by Mexicans, as applied to La Abra Silver Mining Company; what more than you have related has been said by Guadalupe Soto, in relation thereto, and in your hearing?

Ans. I have heard the said Guadalupe Soto say that he was opposed to seeing the mines of Mexico in possession of Americans, and that while he was friendly with General Thomas J. Bartholow, the first superintendent, and liked him very much, *personally*, he was opposed to La Abra Silver Mining Company, and not in favor of their ever being permitted to return and recommence mining operations in that district. That he would go for clearing them out, if they attempted to return to work their said mines at Tayoltita. I know that this was, and is now, the feeling there with higher Mexican authorities than Guadalupe Soto, in that district.

Question number fifteen. Did said Guadalupe Soto have a law suit with La Abra Silver Mining Company, about the title to property in that district?

Ans. Yes. It was about the "Lower Hacienda," as it was called, which was a part of La Abra property, the same having been denounced by said Soto, as abandoned, while the company was still at Tayoltita, carrying on their mining operations through superintendent Exall. This, I think, was about January, 1868, or a couple of months before they were compelled to leave. The case was tried at San Dimas, and although it was a case not requiring much knowledge of the law to determine, still the company could get no decision in San Dimas, but the papers were sent up to Durango, the capital, and, as I understand, decided in favor of the company, but it was a matter of little consequence to the company, as they were soon after driven away

48 and compelled to leave there altogether.

Question number sixteen. Who now occupies the said "Lower Hacienda," and who occupies the principal hacienda and buildings of said La Abra Company at Tayaltita?

Ans. The said juez, or Gefé de Cuartel, Guadalupe Soto, and his family. I think the office held by Guadalupe Soto is, now, "Gefé de Cuartel." I was at Tayaltita, but a few days ago, and I think he then told me so at said hacienda. I know he still holds office there, and executes the orders of the Gefé Politico.

Question number seventeen. In your judgment, what sum of money would cover the losses and injuries of said La Abra Company, direct and consequential, by reason of the acts of said Mexican authorities?

Ans. I cannot state the sum; I have never formed a judgment, or made a calculation of the amount they are entitled to; but it is my judgment that the company are entitled to at least the amount of all their expenditures, and the value of the property left and abandoned, together with such an allowance for consequences as resulted to said company, from the breaking up of the, otherwise, promising enterprise. I have no idea of the extent of their damages, direct and consequential.

Question number eighteen. Have you any interest direct, contingent, or otherwise, in the claim for damages of said La Abra Silver Mining Company against the Republic of Mexico, to support which your deposition is here taken; or are you the agent, or attorney of said company, or for any person having such interest?

Ans. No, sir. I have no interest in the claim, of any nature whatever, direct or contingent, and I am neither agent or attorney for the company, nor for any person having such interest.

(Signed,)

JAMES GRANGER.

Sworn and subscribed before me, this 14th day of May, A. D. 1870.

(Signed,)

ISAAC SISSON,

[Consular Seal.]

U. S. Comm'l Agent.

(Here follows certificate of United States commercial agent at Mazatlan, to the due taking of this deposition, and to the credibility and high respectability of Mr. Granger, the above-named witness.)

[Consular Seal.]

Doc. No. 18.

In the matter of the claim for damages of La Abra Silver Mining Company against The Republic of Mexico. Deposition of Matias Avalos on behalf of Claimants: To be submitted to the Joint Commission of the United States of America and the Republic of Mexico, acting under the Convention of the fourth of July, A. D. one thousand eight hundred and sixty-eight, in session at Washington, D. C.

CONSULATE OF THE UNITED STATES, PORT OF MAZATLAN,
State of Sinaloa, Republic of Mexico, ss:

On this twenty-third day of May, A. D. one thousand eight hundred and seventy, before me, Isaac Sisson, commercial agent, with consular powers, of the United States of America, in and for the port of Mazatlan and its dependencies, personally appeared Matias Avalos, a witness introduced by and in behalf of the claimants in the above-entitled matter, who, after being by me duly sworn according to law to say the truth, the whole truth, and nothing but the truth, through the interpreter and translator, C. F. Galun, for that purpose by me duly sworn, in answer to the following questions, submitted to him by me, and translated by the interpreter, depose and answereth as follows, to wit:

Question No. 1. What is your name, age, birthplace, residence, and occupation, and where did you reside, and what was your occupation from about August, eighteen hundred and sixty-five, up to about March the twentieth, eighteen hundred and sixty-eight?

Answer. My name is Matias Avalos; I am thirty-five years of age; I was born near Tepic, state of Jalisco, in the republic of Mexico; I reside in San Dimas, state of Durango, Mexico; I am (correo) mail-carrier; from August, eighteen hundred and sixty-five, up to March the twentieth, eighteen hundred and sixty-eight, I resided at Tayaltita, in said district of San Dimas, and my occupation was that of "arriero" (packer) for La Abra Silver Mining Company, whose mines and mining works and hacienda are at and near Tayaltita.

Question No. 2. Do you recollect of any difficulties or disturbances that said La Abra Silver Mining Company met with in the progress of their mining operations in said district, or of any obstructions, interferences, or molestations to said company?

Ans. Yes, sir

Question No. 3. What was the nature of said disturbances or molestations; by whom were they made, and who were responsible for the difficulties and obstructions that

said company met with in the progress of their said mining operations at Tayoltita, so far as you know?

Ans. I was present at the hacienda of the said company, one night—I think in the latter part of eighteen hundred and sixty-six—when an armed mob of Mexicans charged upon the hacienda of the company, and the Americans there were badly frightened; and retreated back of the hacienda, and armed themselves for defence. I was inside with them. The Mexicans, as I afterwards found out, thought the Americans too well prepared to meet them, and did not follow up the charge at the time.

At another time, I think in the month of July, 1867, when I was engaged in bringing down from the mines to the hacienda the ores belonging to La Abra Company, I met all the Barreteros, and men employed in and about the mines, going down to the hacienda, and the Barreteros and all the other men stopped and talked with me, and they all said an order had been sent up to the mines by Marcos Mora, gefe politico of that district, to stop work, and ordering them all to Tayoltita. When I came down to the town, in the evening, the gefe was at the house of Guadalupe Soto, and I heard the gefe, Marcos Mora, tell these men, a very large crowd of them, that the company did not work as he, the gefe, wanted them to work, and employ all the men who were out of work at Tayoltita, and that he would not let any of them work if they did not employ all of them, and work all of their mines at the same time, as he had directed them to work; and he said, at the same time, that he was going to take the mines away from the company, and give them to all of the people, to work them as they pleased; and that night, I remember well, I did not sleep at all, for the words used by the gefe politico to the crowd of miners were well intended, and had the effect to incite the Mexican miners and men out of employment to riot, and perhaps to something much worse than that, and I expected serious trouble that night for the company. I do not know how the company settled the matter, or how it was that

50 "La Abra Company" stayed in the district as long as they did after that affair, for I knew the authorities were determined to get rid of them, from all I could hear whispered about by Mexicans out of employment, who seemed to be in with the gefe and juez in getting the company out. I know these troubles went on from time to time, until the spring of the year 1868, when the superintendent, Exall, abandoned all the mines and the hacienda, and metals, and stamp-mill and everything they had there, and the company has never been there, or done any work in San Dimas district since that time. I have heard about the prestamos on the company, and of the capture and pressing of mule trains, and I heard of the taking of money of the company from a Scottie, or Scott, on the road, and of the murder and loss of two captains of the company's mule trains, but I do not know of these things myself, as I did not see them. I heard Scottie say that the military had taken the company's money from him. He told me that when he first came back from Mazatlan, after he had been robbed.

Question No. 4. Who occupies La Abra Company's hacienda, and property at Tayoltita, now?

Ans. Guadalupe Soto and his family.

Question No. 5. What position did this same Guadalupe Soto hold, if any, in the spring and summer of 1867?

Ans. Juez conciliador (conciliation judge) at Tayoltita.

Question No. 6. Have you heard said Guadalupe Soto, or any other of the authorities there than the one you have named, say anything about driving away the company, or of taking their mines and property from them? State all you know in relation thereto.

Ans. No. I do not know that I have heard Guadalupe Soto say so, but I have heard Nicanor Perez, juez conciliador, say he would drive the company out of Tayoltita, and out of the country, and also Andres Serrano, who held the same office after Perez went out. They both said they would get rid of La Abra Company, and have their mines and property for the Mexicans, who were out of employment. They said these mines are too good for "Gringos," they can't keep them or take away their ores.

Question No. 7. Have you any interest, direct, contingent, or otherwise, in the claim of "La Abra Silver Mining Company," against the Republic of Mexico; or are you the agent or attorney of said company, or for any person having such interest?

Ans. No, sir; nothing of the kind. I have no such interest, of any kind, and have no business with any person who has.

his
MATIAS M. AVALOS.
mark.

Witnesses: (Signed,) C. F. GALAN,
(Signed,) JAMES GRANGER.

Sworn to and subscribed before me, this twenty-third day of May, A. D. one thousand eight hundred and seventy, at eight o'clock P. M.

(Signed,)

ISAAC SISSON,
U. S. Com'l Agent.

[SEAL.]

CONSULATE OF THE UNITED STATES,

Port of Mazatlan, State of Sinaloa, Republic of Mexico, as :

Carlos F. Galan, being duly sworn, deposes and says :

I was born in Spain, and now reside in Oro street, Mazatlan ; I am, by profession and occupation, attorney and counsellor-at-law, printer and publisher of a newspaper, called the "Occidental," published at Mazatlan, and also an interpreter and translator of the Spanish and English languages. I was called upon by the aforesaid witness, Matias Avalos, and by Isaac Sisson, Esq., commercial agent of the United States, in and for this port of Mazatlan, to act as his official interpreter and translator, in taking the aforesaid deposition, and that the answers contained therein are the true, correct, and literal translation of the answers made by the witness, in response to the questions set forth in the foregoing deposition, carefully translated by me from the English to the Spanish, to said witness, and the answers translated and written down by me, as said witness made them in response thereto. I have no interest, direct, contingent, or otherwise, in the claim to which the foregoing deposition relates, and I am not the agent or attorney of said La Abra Silver Mining Company, or of any person having such interest.

(Signed,)

CARLOS F. GALAN,
Interpreter and Translator.

Sworn to and subscribed before me, this twenty-third day of May, A. D. one thousand eight hundred and seventy, at eight o'clock P. M.

(Signed,)

ISAAC SISSON,
U. S. Com'l Agent.

[SEAL.]

CONSULATE OF THE UNITED STATES,

Port of Mazatlan, State of Sinaloa, Republic of Mexico, as :

I, Isaac Sisson, commercial agent of the United States of America, with consular powers, in and for the port of Mazatlan and its dependencies, in the Republic of Mexico, do hereby certify, that on this twenty-third day of May, A. D. one thousand eight hundred and seventy, at eight o'clock p. m., personally appeared before me, at the consular office of said United States, Matias Avalos, known to me to be the person described in the foregoing deposition, as a witness thereto, who, after being duly sworn by me, according to law, testified as hereinbefore set forth ; and I do further certify that I understand, speak, and read the Spanish language, but at the request of said witness, I called upon C. F. Galan, Esq., the best and most reliable translator and interpreter known to me in the State of Sinaloa, who, after being by me duly sworn to translate correctly my questions to the witness and his answer in response to the same, he did in my presence put the questions in Spanish, and write down his answers translated into English, and both were carefully read in Spanish by him before me, to said witness, who thereafter consented to, and signed, or made his mark to the same, in my presence, and he, the aforesaid C. F. Galan, upon his oath, did say, that the contents of the foregoing deposition are the true, correct, and literal translations of the answers made by said witness, in response to the questions set forth in the foregoing deposition, and translated to said witness into Spanish, by said interpreter. And I do further certify, that I am competent, by the laws of the United States of America, to take depositions, and administer oaths, and I have special instructions from the Department of State of the United States of America, to take depositions of witnesses on behalf of American claimants, to be submitted to the Joint Commission of the United States of America and the Mexican Republic, in session at Washington, D. C.; and I do further certify that I have no interest, direct, contingent, or otherwise, in the claim to which the foregoing deposition relates, and that I am not the agent, or attorney of said claimant, or of any person having such interest; and I do further certify, that I know said Matias Avalos, the above-mentioned witness; that he is one of the correo, or mail carriers, from Durango to this place, trustworthy, and a credible witness, and that his statements are entitled to full faith and credit.

In testimony whereof, I have hereunto set my hand and official seal of the consulate of the United States, this the day and year first above written.

(Signed)

ISAAC SISSON,
U. S. Commercial Agent.

[SEAL.]

No. 489.

The following are copies of official orders from the local authorities of San Dimas district, to the superintendent of the Abra Silver Mining Company, at Tayoltita :
Translation of Exhibits "V," "W," "X," "Y," and "Z," in their order.

EXHIBIT V.

"2D COURT-CONCILIADOR, }
"TAYOLTITA."

"To the Superintendent of the Abra Reducing Works :

"By the communication of yesterday, dated the 3d, received from the Gefe Politico of San Dimas, I notify you that if you do not intend to work the Abra mines as they were formerly worked, upon the system of "thirds," that you immediately vacate the mines, to allow the operatives to work them on their own account, without further loss of time.

"Liberty and reform. Tayoltita, July 4th, 1867.

"GUADALUPE SOTO."

EXHIBIT W.

"2D COURT-CONCILIADOR, }
"TAYOLTITA."

"To the Superintendent of the Abra Reducing Works :

"The court notices, with the greatest displeasure, that twenty-four hours have elapsed since it addressed you a communication, to which you have made no reply. You are ordered to arrange your work with the operatives within two hours; and if you come to no arrangement, you will vacate the mines, so that they may lose no more time.

"Liberty and reform. Tayoltita, July 5, 1867.

"GUADALUPE SOTO."

EXHIBIT X.

"GEFETURA POLITICO }
OF SAN DIMAS."

"To the Representatives of the Mines, Tayoltita :

"The Gefetura, being informed that you have stopped the mines in that mineral, informs you that this is not the engagement you entered into with me, and that it hence believes that you place no value upon your word. Nevertheless, if you don't choose to continue your work, give the people permission to collect ores in the mines, as I will not hold myself responsible for the consequences, in a town where the people are without work.

"Independence and reform."

"San Dimas, July 10, 1867."

"M. MORA."

EXHIBIT Y.

"GEFETURA POLITICO OF THE }
PARTIDO OF SAN DIMAS."

"To Judge Guadalupe Soto, Sole Conciliador, at Tayoltita :

"From your communication, this Gefetura has learned, with great displeasure, the abuses committed by these Americans, who at first agreed to pay their operatives in money, then to pay them half and half, and thirdly to pay them one-third." "Notify them through your court, and by my order, to at least comply with the last contract, that is, to pay them one-third in money, otherwise that they vacate the mines, and allow the operatives to work them as they can, since neither the mining ordinances permit them to pay in goods only, nor will the Government consent to such abuses, and it is already tired out with the thousand complaints upon this subject."

"You will show this communication to the American in charge in that mineral."

"Independence and Reform."

"M. MORA."

"SAN DIMAS, June 3d, 1867."

EXHIBIT Z.

"SAN DIMAS, July 27, 1866."

"To Colonel J.A.de Lagüel.

"DEAR SIR: Both Mr. Laeuz, and the Gefe of the Partido, will inform you of the commission with which I am charged, by superior orders, and the powers vested in me to procure the necessary means for the maintenance of the forces under my command; but, informed as I fully am, of the injury which my continuance in the district would cause to its residents, and particularly those having large business and property, in the maintenance of my force, I have resolved to leave immediately, as I

think that it will be for the interest of your business, and upon the sole condition that the residents of the district furnish me with \$1,200 for my departure." "I am confident that I take this step as the least burdensome, because, if I remain here, I must obtain means *wherever they may be found*, but as I have before stated, my purpose is to the individual guarantees which the laws accord to the people."

"I hope that you will attentively weigh my reasons, and, convinced of their soundness, you will contribute your share toward completing the contribution levied by the Gefetura of the Partido, on your place."

54 "I avail myself of the opportunity of offering myself as your friend and obedient servant,

"JESUS VALDESPINO."

Doc. No. 7.

In the matter of the claim for damages of La Abra Silver Mining Company against the United States of Mexico.

Deposition of John Cole for claimants.

UNITED STATES CIRCUIT COURT ROOM, DISTRICT OF CALIFORNIA, }
City and County of San Francisco. }

3 O'CLOCK P. M., March 15th, 1870.

Personally appeared before me, George E. Whitney, clerk and commissioner of the United States circuit court for the district of California, John Cole, a witness on the part and behalf of La Abra Silver Mining Company, the claimants in the above-entitled cause, and having been duly sworn by me according to law, to tell the truth, the whole truth, and nothing but the truth, deposes and says, that his name is John Cole; that he is forty years of age; that he was born in the county of Northumberland, in the State of Virginia, but was raised in Wayne county, North Carolina, where he resided from childhood, until he came to Mexico to reside; that he is now, and always has been, a citizen of the United States of America; that he has resided in Mexico and California since the year eighteen hundred and forty-nine, (1849;) that he now resides on a plantation, or ranch, at Camacho, in the district of Mazatlan, in the State of Sinaloa, in the Republic of Mexico; that his residence, in the years eighteen hundred and sixty-six, (1866,) and eighteen hundred and sixty-seven, (1867,) and eighteen hundred and sixty-eight, (1868,) was divided between said ranch in Sinaloa, and the mining district of San Dimas, in the State of Durango, in the Republic of Mexico; that his family resided at the time of the events hereinafter named, in eighteen hundred and sixty-six, (1866,) eighteen hundred and sixty-seven, (1867,) and eighteen hundred and sixty-eight, (1868,) upon the said ranch, or plantation, in Sinaloa, but about one-half of his time, during the years named, was devoted to mining in said district of San Dimas, in the State of Durango, and on the road between Mazatlan, Sinaloa, and said district of San Dimas, in the State of Durango, Mexico, as hereinafter set forth; that he is now temporarily in San Francisco, on business, and will return to his residence in Sinaloa by the first steamer to Mazatlan.

That he is now, and was in eighteen hundred and sixty-six (1866,) eighteen hundred and sixty-seven (1867,) and eighteen hundred and sixty-eight (1868,) part owner of the "Nuestra Señora de Guadalupe Gold and Silver Mines," and a share-holder in the mining company of that name; these mines are situated about one and a half to three miles from Tayoltita, in the mining district of San Dimas, in the State of Durango, Republic of Mexico; that he worked said mine in connection with said company, for three years, until interfered with by the authorities, and they were compelled to leave there.

Deponent further says, that he knows the mines, and works at Tayoltita, in said district of San Dimas, which belonged to, and was owned by said La Abra Silver Mining Company. That the said Guadalupe mine, in which deponent was interested, is situated about one mile and a half to two miles from the works of "La Abra Silver Mining Company," at Tayoltita. And deponent further says, that he is one of the oldest American miners in that district, and the said Guadalupe mining company was one of the oldest incorporated American mining companies in said district; that he is well acquainted with all the mines in said district, and especially with the mines at or near Tayoltita, and that he knows that the said "La Abra Silver Mining Company" was, in the years eighteen hundred and sixty-six (1866,) eighteen hundred and sixty-seven (1867,) and eighteen hundred and sixty-eight (1868,) one of the largest, and their machinery one of the best and most extensive of any in that mining district, either of the native or foreign companies; that he assisted the "La Abra Silver Mining Company," to transport their heavy and

excellent stamp mill and machinery, from Mazatlan, Sinaloa, to their said mines in San Dimas, Durango, in eighteen hundred and sixty-six (1866,) and eighteen hundred and sixty-seven (1867;) that he had the control of the forwarding of said machinery and supplies, by three, and sometimes four mule trains, owned by, and in the employ of said La Abra company, consisting of about forty (40) mules to the train, sometimes a few more, and at other times a few less, but never less than thirty (30) mules to each train, so engaged in packing the stamp mill, supplies, and machinery, from Mazatlan, State of Sinaloa, to the mines of the said "La Abra Silver Mining Company," at Tayoltita, in the aforesaid district of San Dimas, State of Durango, in the years eighteen hundred and sixty-six (1866,) and eighteen hundred and sixty-seven (1867;) that said mules, machinery, and supplies, were the property of the aforesaid "La Abra Silver Mining Company," and they were of the very best quality.

The machinery and supplies of said company, of every description, was transported over the mountains from Mazatlan to Durango, a distance of about one hundred and sixty-five (165) to one hundred and seventy (170) miles, on mules' backs, over one of the most dangerous and worst roads that he ever saw—over mountains and precipices, and through wild ravines. The machinery and supplies for the company, so transported, during the years eighteen hundred and sixty-six (1866) and eighteen hundred and sixty-seven, (1867) must have cost the said company not less than one hundred and seventy-five thousand (\$175,000) dollars, and the stamp mill, including the tools, implements, sheds, outhouses, and improvements of all kinds on the said property, in the judgment of deponent, must have cost not less than three hundred thousand (\$300,000) dollars, and they may have cost much more than that amount; that of said property, five veins, owned and opened by "La Abra Silver Mining Company," and known respectively as "La Luz," "Cristo," "La Abra," "Rosario," and "Tapia" are of the richest in the State—a fact which has also been mentioned by Mr. Ward in his history of Mexico; that he knows the fact that fifty thousand (\$50,000) dollars in gold coin was paid by said La Abra Silver Mining Company, through General Thomas J. Bartholow, of St. Louis, Missouri, and David J. Garth, of New York, to Don Juan Castillo de Valle, of San Dimas, in said State of Durango, Mexico; and he believes, but does not know the fact of his own knowledge, that said Don Juan Castillo de Valle had a good Mexican title to said property, and good right to sell and dispose of the same,—it was so understood by everybody he knew in that district.

Deponent further says that he is personally cognizant of the fact that Charles H. Exall, the last superintendent of the said "La Abra Silver Mining Company," was driven away from their mines, together with his American employees, and was compelled to abandon the same by the influence and connivance of the authorities of the district of San Dimas, and by the conduct of the troops 56 of the Liberal Government of Mexico, acting under President Juarez, who, to the knowledge of deponent, seized upon three of the mule trains of said company, during the years eighteen hundred and sixty-six (1866) and the early part of eighteen hundred and sixty-seven, (1867,) and converted the same, together with all the supplies packed upon them, to their own use, or the use of their Government; and upon one occasion, one of the officers, an American, in charge of one of the said mule trains was killed by the said troops for attempting to defend the property in his charge; he was acting quartermaster of said train at the time.

Deponent says, he has heard Mexican soldiers, in said Liberal service at that time, boast of this murder, and justify it upon the ground that "the supplies were needed for the army, and they could not secure them without killing the quartermaster," as the officer in charge was called; that an officer of the said Mexican army, who stopped over night with deponent at his said ranch in Sinaloa, sometime in the summer or fall of eighteen hundred and sixty-seven, (1867,) with a troop of Mexican soldiers, referring to the aforesaid murder, told deponent that it would "learn the gringos" (foreigners) a lesson; that when they (the troops) wanted anything in future they probably would not be denied, as they had been, by the quartermaster of "La Abra Silver Mining Company's pack trains;" that the officer referred to was acting as captain, commanding said troop, and had at the time about forty (40) men under his command.

Deponent asked him if he knew anything in reference to the above-named occurrence, when he replied in substance as above stated; and said Mexican officer also told deponent, in the same conversation, that the capture of said mule train was ordered by his superior or commanding officer in the said Liberal army of Mexico; and he also added, with seeming regret, that he was very sorry the said officer or quartermaster of the mule train was killed, but that they must have provisions and supplies for their army at whatever cost, and politely gave his word, and the usual pledges of Mexican authorities, that all damages for property taken from Americans for the use of their army should be paid for by his Government.

Deponent further says, he is positive that the said "La Abra Silver Mining Company" could not have recommenced work on the said mines, after Mr. Exall, the superin-

tendent, had been compelled to abandon them in the month of March or April, eighteen hundred and sixty-eight, (1868,) which compulsory abandonment deponent knows to be the fact, and from what he was able to gather from the authorities and citizens of the said district of San Dimas, it is his opinion that neither the aforesaid "La Abra Silver Mining Company," nor any other American company, with similar machinery and prospects, could have returned and worked the said mines in peace and without interference from the Mexican local and national authorities, or, at least, without the sure connivance of said authorities with Mexican citizens, to deprive them of their property; that all the American companies with which he is acquainted in the said district of San Dimas, excepting only one, have been driven off and compelled to abandon their mines and mining property, by the connivance of Mexican authorities, and for the want of that protection which was promised them by the proclamations of the Mexican agents, in California and other States of the American Union, and by the decrees of President Juarez himself; that under those decrees, millions of dollars

157 were invested in mining operations in that part of Mexico; that he knows the protection offered Americans, and other foreigners in eighteen hundred and sixty-five (1865) and eighteen hundred and sixty-six, (1866,) and guarantees and pledges of protection made by Mexican authorities, to Americans especially, have been violated by said authorities, and that a decree from President Juarez, withdrawing the protection that induced said Americans to invest their capital there, left them to the mercy of selfish Mexican citizens and authorities, as he has stated; that during the years eighteen hundred and sixty-six, (1866,) and eighteen hundred and sixty-seven, (1867,) and up to March or April, eighteen hundred and sixty-eight, (1868,) it was a common report in that district, among Mexicans and Americans, that said "La Abra Company" were annoyed and in constant trouble on account of the jealousy and hostility of the Mexican authorities, and that they had to leave there; and deponent knows the fact himself, that said company was hindered and delayed in their said work by the interference of said authorities, civil and military, in connivance with some of the citizens there, which occurred frequently during the three years mentioned. That he knows the fact that the said La Abra Company had taken out and left upon the ground, in April, eighteen hundred and sixty-eight, (1868,) large quantities of rich silver ores, as he believes, from one thousand tons to fifteen hundred tons, and that nearly all of the richest and most valuable of the same were taken off by Mexicans, and carried away from said mines, after superintendent Exall had been forced to abandon the same, in March, or the early part of April, eighteen hundred and sixty-eight, (1868; that deponent has frequently seen them packing off said ores from the works of said company, in sacks upon mules backs, in March, April, and May, eighteen hundred and sixty-eight, (1868,) and they must have taken off largely more than two hundred and fifty thousand, (\$250,000), dollars worth of the said ores, independent of, and above the cost of reducing the same to bullion. Deponent believes the said company, at the time they abandoned the same, had out about twelve hundred (1,200) tons of said silver ores, which would have yielded said company, in his opinion, not less than from one hundred dollars (\$100) to a thousand (\$1,000) dollars per ton of pure silver, and the richest of said ores would have averaged more than two thousand (\$2,000) dollars per ton, after its reduction; that while said Exall was still there, trying to work said mines, in February and March, eighteen hundred and sixty-eight, (1868,) Mexicans were packing off said ores by night and day, but he did not dare to go out and defend them, as his life was threatened if he had attempted it; that deponent has heard those threats made by the official prefect of San Dimas, Macario Olvera, and deponent was informed, and he believes from common report at the time, that one Camilo Perez, the local judge of San Dimas, in October or November, eighteen hundred and sixty-eight, (1868,) stated that he had contributed to the driving away of said "La Abra Silver Mining Company," and that he boasted of the fact; and the prefect of San Dimas, Macario Olvera, told deponent that the said company were compelled to leave there, in the spring of eighteen hundred and sixty-eight, (1868,) and that if they came back, he, the said prefect, would have them driven off again.

Deponent further says, that said company was very unpopular with said Mexican authorities and citizens, for the reason, as was generally believed there by Americans, that said company had commenced their mining operations on so grand a scale, and with prospects of realizing a splendid fortune so quickly, that Mexican authorities and citizens grew desperately jealous and envious of them, and their conduct, in 158 March and April, eighteen hundred and sixty-eight, (1868,) proved conclusively to deponent that said authorities never intended to permit said La Abra Silver Mining Company to realize any profits from their heavy outlays and expenditures upon their said mines; for the support of this conclusion, deponent says that he heard the statement of the said prefect, Macario Olvera, of said district of San Dimas, who told deponent, he thinks it was in the month of October or November, eighteen hundred and sixty-eight (1868,) or about that time, that said La Abra Silver Mining Company had been compelled to quit their said mining operations on account of the

hindrances and annoyances occasioned by the interference of said military authorities, in capturing their supplies and mules, on the road between Mazatlan and San Dimas, as aforesaid, and also because, as said prefect told deponent, it was the fixed determination of himself, and other Mexican authorities there, never to permit said La Abra company to carry out of the country a dollar's worth of said silver and gold; and the same official told deponent that the feeling there, in San Dimas, by Mexican citizens and authorities, against said company, was so bitter, that he knew they never could return and recommence operations there with safety to life or property; that they should be driven away if they attempted it. This conversation took place, between deponent and the said prefect, at said town of San Dimas, in the said district of San Dimas, he thinks, in October or November, eighteen hundred and sixty-eight, (1868,)—he is certain it was in the fall or winter of eighteen hundred and sixty-eight, (1868,)—deponent says, it might have been as late as December, eighteen hundred and sixty-eight, (1868,) or January, eighteen hundred and sixty-nine, (1869.) Deponent was, and is yet, well acquainted with said Olvera, and on friendly terms with him, but he knows the said prefect is an enemy to, and hates the said "La Abra Silver Mining Company;" that he denounced them as "Dirty American Gringos," and the said prefect, when deponent, at one time, consulted him, by request, as to the safety and protection of said company, should they attempt to repossess themselves of their mines, as they thought of trying to do, declared to him, deponent, that if said company ever attempted to return there, or to recommence work upon their said mines in that district, he would have them sent away faster than they were driven off before, or words to that effect in the Spanish language, and he made the following remarks: "Let them dare to return, and I'll fix them so they they won't get away quite so safely as before;" and again, he said, "they can't work that machinery in this district, and their safest plan is to stay entirely away from Mexico," or words to that effect; he thinks, those are the very words, spoken in Spanish by him, as properly interpreted by deponent, in the English language; that those unkind words made an impression upon his mind, never to be forgotten, and deponent advised one of the members of La Abra Silver Mining Company, of the same, soon thereafter. Deponent says, that those remarks, and all others made to him by said authorities, or citizens, were always made to him in the Spanish language, which he has spoken and understood well, for the last twenty years, having resided in the Republic of Mexico during that period, most of the time, and always conversing, as he did, freely with Mexicans in their own language; that he has resided principally in Mexico since the close of the Mexican war, in which he was a soldier in the United States service.

Deponent further says, he knows the fact that the trains of mules were captured 59 by the said military authorities, from La Abra Silver Mining Company, on the road from Mazatlan to San Dimas, and that these captures, to his knowledge, took place three several times in 1866 and 1867, and that the quartermaster of one of them, in charge, was killed as aforesaid; and that he has information of the capture and loss of several other mule trains belonging to said company, engaged in packing provisions and supplies for them, as aforesaid, which captures were reported to have been made by the military authorities of the Republic of Mexico, but that he knows of his own personal knowledge of only the three trains that he has mentioned as having been so taken, but that he believes the fact that the other trains of mules and valuable supplies were taken from said company, as reported at the time, not less than six (6) or seven (7) times during the years eighteen hundred and sixty-six, (1866,) eighteen hundred and sixty-seven, (1867,) and the early part of eighteen hundred and sixty-eight, (1868,) as he has heard Mexican soldiers belonging to the army of that Republic boast of said acts, and they laughed about La Abra Company having made good quartermasters and commissaries (proveedores) for supplying their army, and they justified the same on the usual plea of military necessity.

The mules captured from the said company, as aforesaid, were of the largest and best quality of mules; they were worth as much money as any mules in that country; about one hundred and twenty (120) of them were so captured, to his knowledge.

I have never known said company to own a poor or bad mule, or a poor horse.

Mules at that time were worth much more than they are now, as they were in demand for the use of the army as aforesaid, and mules of that class, even now, in time of peace, are very valuable for packing; that such mules packed what Mexicans called a "carga," (300 pounds,) and in many cases while packing machinery, as for said company, they had to pack as high as five hundred (500 lbs.) pounds, which in many cases was the weight of a single piece of the same. He does not know the amount or value of the supplies taken from said trains, but it was a common report amongst Mexicans there, at the time of the forced abandonment of said mines and property by said company, that they had lost mules, pack saddles, and supplies, in the three years named, to the amount of seventy-five thousand (\$75,000) to one hundred thousand (\$100,000) dollars.

Deponent believes that two of the six or seven trains heretofore mentioned, which were so captured from said company during the years named, were captured by the so-called "Imperialists,"

Deponent has been reliably informed that such was the case, but of this last-named fact he is not certain, as his information is from common report.

Deponent says he does not know, of his own knowledge, and cannot estimate accurately, the loss to said company by the capture of said mule trains, and other supplies of which he has spoken, but he believes it must have been as much or more than was reported as aforesaid. And deponent further says that their losses by said forced abandonment of their mines and mining property, and the ores stolen from them before and after the said abandonment, together with all investments made by them for mines, machinery, stamp-mill, houses, patios, mill-races, buildings, and other improvements, and for all the labor of opening their mines in that district, if consequential damages are taken into consideration and account, and in estimating the damages of all they might have realized, if they had been permitted by said authorities to have completed their extensive works, and to have continued said mining operations to the present day, at two million dollars (\$2,000,000) at least, and that, of this sum, nearly one-third of the amount must have actually been paid out by said company, including all their investments, and expenses, and interest upon the same to this time.

Deponent further says that he has no interest, direct, contingent, or otherwise, in the claim of said company, to support which his deposition is here given, and that he is not the agent or attorney of any person having such interest, and that upon the happening of no event would he be entitled to any part of the sum which may be awarded to said company by the commissioners. And further, this deponent saith not.

(Signed,)

JOHN COLE.

Subscribed and sworn to before me, this, the fifteenth day of March, A. D. eighteen hundred and seventy, (1870.)

[SEAL.]

(Signed,)

GEO. E. WHITNEY,

*Clerk and Commissioner of the United States Circuit Court,
District of California.*

UNITED STATES OF AMERICA, STATE OF CALIFORNIA,

City and County of San Francisco, ss :

I, George E. Whitney, commissioner of the United States circuit court for the ninth circuit and district of California, and clerk of the same, do hereby certify that John Cole, whose deposition is hereinabove written, attended before me, on this fifteenth day of March, A. D. eighteen hundred and seventy, (1870,) at the United States circuit court rooms in the city and county of San Francisco, and was publicly and duly sworn by me, in accordance with the laws of the United States of America and the State of California, to tell the truth, the whole truth, and nothing but the truth, in the above-entitled matter; and thereupon he deposed and testified as herein set forth; that said deposition was carefully read to said John Cole, by me, and that he thereafter signed the same in my presence.

I do hereby certify that said deposition was taken by me in the city and county of San Francisco, in the State of California, in the United States of America; that I am competent to take depositions, by the laws of said State and of the United States; that I have no interest in the claim to which the testimony of said John Cole, in said deposition, relates, and that I am not the agent or attorney of said La Abra Silver Mining Company, claimants in the above-entitled cause, nor for any person having such interest.

I do further certify that said deposition was reduced to writing by Richard T. Hill, in my presence, who has no interest, and is not the agent or attorney of any person having an interest in said claim.

And I do further certify, that I do not know John Cole, the above-named affiant, but I do know Aaron Brooks, of San Francisco, who certifies below, upon oath, to the good character for truth and credibility of said John Cole as a witness; and I hereby certify to the credibility of said Aaron Brooks for truth and veracity, and that his testimony is entitled to full faith and credit.

Witness my hand, and the seal of the said United States Circuit Court, for the ninth circuit and district of California, at San Francisco, in said district, this fifteenth day of March, A. D. 1870.

[SEAL.]

(Signed)

GEO. E. WHITNEY,

*Clerk and Commissioner of the United States Circuit Court,
District of California.*

61 UNITED STATES OF AMERICA, STATE OF CALIFORNIA, }
City and county of San Francisco :

Aaron Brooks, of San Francisco, being publicly and duly sworn according to law, to tell the truth, the whole truth, and nothing but the truth, deposes and says, as follows: I reside at number 246 Third street, in the city of San Francisco, State of California.

I know John Cole, who has made the foregoing deposition; that he is a credible witness, and his deposition is entitled to full faith and credit; that I have no interest in the claim to which the foregoing testimony of said John Cole relates, and that I am not the agent or attorney of any person having such interest.

(Signed)

AARON BROOKS.

Subscribed and sworn to before me this fifteenth (15th) day of March, A. D. 1870.

[SEAL.]

(Signed)

GEO. E. WHITNEY,

Clerk and Commissioner of the United States Circuit Court for the district of California.

Doc. No. 27.

Deposition on behalf of the claimant, Abra Silver Mining Company vs. The United States of Mexico.

Deposition of Juan Francisco Gamboa, to be used before the Joint Commission of the United States and the Republic of Mexico, sitting at Washington, District of Columbia.

UNITED STATES CONSULATE, PORT OF MAZATLAN,
STATE OF SINALOA, Republic of Mexico, ss.

Before me, Isaac Sisson, Commercial Agent of the United States of America, for the port of Mazatlan and the dependencies thereof, personally came Juan Francisco Gamboa, who having been duly sworn according to law to speak the truth, the whole truth, and nothing but the truth, as a witness on behalf of the claimant, deposed as follows:

My name is Juan Francisco Gamboa; forty years of age; I was born at San Ygnacio, State of Sinaloa, Republic of Mexico; I reside at Limon, in the said district of San Ygnacio, and I resided there during the occurrences with regard to which I have been produced to testify; my occupation now is, and always has been, farming business and transporting provisions and other articles for the mining companies in the States of Durango and Sinaloa, also purchasing and selling provisions, &c.

I am acquainted with the works of the Abra Silver Mining Company at Tayoltita, in the mineral of San Dimas, State of Durango, Mexico. I was acquainted with the principal employees of the said company at the time they were in operation at Tayoltita, during the years 1865, 1866, 1867, and up to the time the company abandoned the said mines, which I think was in the month of March, 1868. I know that some mule trains belonging to the company, which were loaded with a large quantity of provisions and other articles, were taken, and it was said that this was done by the Republican army, but I did not personally witness it. I heard it said at the time of the capture of a mule train belonging to the said company, which was loaded with provisions and other articles for their operatives in the said mines. As the head muleteer was lost, and never seen afterwards, it was supposed that he had been killed by those who captured the mules. I also heard of the murder of Grove, at a place called Arroyo del Candalero, between San Ygnacio and the company's mines in Durango; but I know nothing, personally, of the facts of the murder, except from general hearsay.

I know that the Abra Silver Mining Company was the owner of rich and valuable mines at Tayoltita, and the vicinity. They were considered as being very abundant in silver ores, of the best quality. I know that their machinery was of the best kind, and that when they were compelled to abandon it that they had everything ready to work the mines and silver ores on a large scale.

That they had extracted and transported to the reducing works belonging to them, a large quantity of rich ore, which, judging from the size of the heap which I saw go into the mill and the outhouses, and which was cleansed and ready for reducing, was not less than from six to eight thousand cargoes of ores. It appeared to me very rich in silver, and ore which might produce from three to eight marks per carga, or even more; that I was on the spot at the time, or a little before they abandoned it; that I had a contract for supplying the said company with provisions for their employees, such as lard, corn, jerked beef, &c. I also had a contract for transporting ores from the mines to the reducing works, and from the mill to the outhouses, when they were working at Tayoltita, made with Superintendent Exall, at a stipulated price per hundred cargoes; but the breaking up and driving away of the said company rendered it impossible for me to carry out my contract. The last time that I was there, which, it appears to me, was in the month of February, or a little before their expulsion, Mr. Exall told me that it would be impossible to carry out the contract with me, in consequence of the conduct of the authorities, who were troubling and interfering

with the company's operations to such an extent, and in such a manner, that he would be compelled to abandon the work at the mines, to save his life; that he could not pay me the contract, and as there were no personal guarantees there for life or property, he would be compelled to abandon his operations and the idea of his carrying out his contracts with me, and others.

From the information afterwards obtained from my countrymen and friends at Tayoltita, I was convinced that what Superintendent Exall told me was correct, and that there really existed among the authorities and people of Tayoltita, and in all the district of San Dimas, a firm intention and determination to rid themselves of the company, by any means. I am satisfied, from what I saw and heard from the authorities and people, that it would have been impossible for the company, or their American employees, to have continued their mining operations in that district, with the least hope of safety, or guarantees for their life or property. It was currently said there that the richest ores belonging to the company, and the best which they had collected at the mill, were openly and with impunity stolen by the Mexicans, and that certain authorities of the district protected these persons in carrying off the ores, and that Superintendent Exall did not dare to leave the reducing works to prevent them.

I do not know that the statements of these persons at Tayoltita are correct, but coming from my own countrymen, and being made at the time, I may, and do say, that I then believed them to be correct. I know that the expulsion of the said company occurred shortly after, and both Americans and Mexicans with whom I conversed upon the subject, shortly after the occurrence, attributed the abandonment of the ores, stores, mines, and property of the Abra Silver Mining Company to the interference of the authorities of the district, and their instigating the people to the commission of the depredations, which I have stated, which resulted in the abandonment.

I know that one of the other American mining companies in that part of the country lost two of their principal employees, who were killed, and the rest were driven away from their work. I also know that of the many foreign mining companies in that district, who commenced operations with good prospects, one only remains, whose officers, I believe, are not Americans, but Englishmen, and probably the shareholders. For some unexplained cause, the American mining companies who have worked in this part of Mexico have not met with much opposition in investing their large capitals, and in putting up their machinery, but they have been compelled to leave the country before realizing anything from their undertakings, and some of them, as the Abra Silver Mining Company, before they had completed their preparations for extracting and reducing the ores.

I have no interest, direct, indirect, or contingent, in the claim in support of which I have given this deposition, nor am I the agent or attorney of any person who has. I have given my deposition, because it appears to me an act of justice towards the company, and have made it in Spanish, in order to see what I was signing, although I have the uttermost confidence in Mr. C. F. Galan, the interpreter.

JUAN FRANCISCO GAMBOA.

Subscribed and sworn to before me, on this 14th day of May, 1870.

ISAAC SISSON,
U. S. Com. Agent

[Seal of the U. S. Consul.]

[Here follows, in the original, the affidavit of the interpreter, Chas. F. Galan, that this witness was properly and lawfully examined by the consul, and to the signing by witness.]

[Here follows, in the original on file, the certificate of the United States consul to the lawful taking of this deposition, and that he knows the affiant, Gamboa, personally and by reputation; that he is a man of good character for truth, and a credible witness; and that his statements are entitled to full faith and belief.]

Doc. No. 19.

In the matter of the Claim for Damages of "La Abra" Silver Mining Company against The United States of Mexico. Deposition of William G. S. Clark. To be submitted to the Mixed Commission of the United States & Mexico. In session at Washington City, D. C.

UNITED STATES CONSULATE,

Port of Mazatlan, State of Sinaloa, Republic of Mexico, ss:

Personally appeared before me, Isaac Sisson, United States commercial agent in and for the port of Mazatlan and its dependencies, William G. S. Clark, introduced as a witness on the part and behalf of "La Abra Silver Mining Company," claimants in

the above-entitled matter, and having been by me first duly sworn, according to law, deposes and says:

That he was born in England, *as he believes*; that he is, and has been for many years, a citizen of the United States of Mexico; that he is now fifty-three years of age; that he resides at Camacho, in the district of Mazatlan, in the State of Sinaloa, in the Republic of Mexico; that he has resided at said Camacho for seven years last past; that his occupation is, and has been for the past ten years, that of a merchant and farmer, or planter; that he resided at said Camacho, and was so engaged in planting, and trying to raise cotton and corn, and also carrying on mercantile business, during the events about which he is here called upon to testify; and that he was also engaged, a portion of that time, in forwarding machinery and supplies to "La Abra Silver Mining Company," at Tayoltita, in the mining district of San Dimas, State of Durango, Mexico; the said company employed deponent, and one John Cole, also of Camacho, to receive and forward a large ten-stamp mill, for crushing silver ores, or metals, besides a large amount of machinery for the same, dry goods, provisions, stores, and supplies of all kinds needed by said La Abra Company, in carrying on their heavy works of silver mining, at said Tayoltita. I was also employed in forwarding machinery and supplies for a company called, I think, the "Nuestra Señora de Guadalupe Gold and Silver Mining Company," of the same district, and for other companies, in the State of Sinaloa; and deponent further states, that he is, or was, well acquainted with the said La Abra Silver Mining Company, its agents, or superintendents, and with many of the subordinate employees of said company, while carrying on their mining operations at said Tayoltita; that he knew General Thomas J. Bartholow, Colonel de Lagüal, and Charles H. Exall, the first, second, and third superintendents, and, as he believes, all the superintendents that have ever been employed by said company.

And deponent further says, that while he was so employed, in the work of forwarding said machinery and supplies to said La Abra Silver Mining Company, to their works in Durango, in the spring, or summer, of 1866, he was a witness to certain exactions, or "*prestamos*," from said company, by the different commanding officers of the district of San Ygnacio; that, at one time in particular, while said De Lagüel was superintendent of said company, he, deponent, had a large amount of provisions under his charge for said company, and which was to have been forwarded to their mines in Tayoltita, but one Colonel Donato Guerra, of the Republican army of Mexico, then commanding that district, levied upon said supplies a tax of six hundred dollars, (\$600,) before deponent could forward them, as directed by said superintendent of La Abra Company, and that said tax had to be settled and paid by deponent before said Colonel Guerra would permit said goods to be forwarded; that deponent mentions this as only one of many of the "*prestamos*," or forced loans paid by said "La Abra Silver Mining Company," upon the demand of the various military chiefs of the Republican army aforesaid.

Deponent recollects of a number of other forced loans of this kind, imposed upon said company, but cannot state the amounts with accuracy, as the same were not paid by him.

Deponent further states, that on the occasion mentioned, when the said Colonel, or General Guerra compelled the payment of said "*prestamo*," before deponent could get said supplies from the possession of the military, he was detained for four days by said acts of the military, and that, in consequence of this delay, a barrel, or carga of oil, for the mill and machinery of said La Abra company, was so injured by the shrinking of the casks, that the said oil had all run out of the casks, when delivered by said military commander, and that in consequence thereof, said company was deprived of the necessary oil for their said machinery, for many weeks thereafter, as Mazatlan was then in possession of the French troops, and by a stringent order of the commander of the Liberal army, no person was allowed, under heavy penalties, to enter the port of Mazatlan for some months thereafter; that the French commander of Mazatlan issued, about that time, an order, forbidding that any kind of goods or supplies should leave the port, inland, under equally heavy penalties. That said superintendent of La Abra Company came back to Camacho, a few days after the loss of said carga of oil, and tried, in every possible way, to procure permission of the said commander of the Liberal troops of that district, to visit the port of Mazatlan, or the lines of the French, with a view to making an effort to gain admission to the Mazatlan market, in order that he might supply the place of said oil, so much needed by said company, which had been lost or stolen while in the forced possession of said General Donato Guerra, but he was refused such permission; and deponent further says, that he heard said superintendent of La Abra company complain, at the time, that even that circumstance, trifling as it might appear to those not acquainted with the uses and value of such oil for machinery, had caused a complete paralysis in the work of putting up said machinery at their mining hacienda, as the same had become wet and rusty, in transporting it to the mines, and could not be put in working order, in the absence of that material.

And deponent further says, that he knows of other abuses of said company by the military authorities aforesaid; that in the early part of 1866, an employee of said company, whose name, deponent believes, was George Scott, (called "Scottie,") who was on his way from Mazatlan to the works of the company in Durango, was met in the road by an armed party of the said military, between Mazatlan and deponent's residence in Camacho, and said armed party of troops, of the Republic army of Mexico, did, by force of arms, take from said Scott, or "Scottie," about twelve hundred out of three thousand dollars in gold coin, (\$3,000,) Mexican ounces, 187½ ounces,] which money belonged to said "La Abra Silver Mining Company," and was being transported to said company by the said "Scottie," who appealed to deponent to visit, with him, the headquarters of the army in that district, and to ask General Guerra to return said money, or to receipt for it, in order that he might have *something* to return to said company; that deponent did so visit General Guerra's headquarters, with the said "Scottie," but was informed by the commanding officer that he could not give up said money. After said Scottie had wasted two or three days to obtain some kind of acknowledgment of the taking of said money, he became disgusted, and returned to report the facts to his company at Tayoltita. Said General Guerra denied that he knew of the whereabouts of said "prestamo," or forced loan, and said general stated to deponent, in this conversation, that his army needed all the supplies that could be found anywhere, and, in substance, he said it did not matter in whose possession he should find supplies, or anything else actually needed by the army, that they must be taken, and that the same should be paid for at the close of the war then pending.

Deponent charged his memory with the promises of remuneration for the so-called "prestamos," as deponent had suffered in that way, to a considerable extent, by the orders of the same authorities, and by other exactions from officers of the same army.

And deponent further says that he has heard, from reliable authority, that a
66 number of trains belonging to said "La Abra Silver Mining Company" were captured and converted to the use of said army; that said trains of mules were loaded down with provisions and supplies for the use of the employees of said company, when the same were captured and pressed into the said army of Mexico, that said mule trains and supplies were captured by said military, while on the road between Mazatlan and the said mountain district of San Dimas.

Witness did not see said captures made, but from common report, at that time, as well by Mexicans as Americans, he is perfectly satisfied that those depredations upon the property of said company, were made as reported at the time, but to what extent, or of what value of such supplies, deponent will not undertake to say. Directly and indirectly, said company must have suffered heavy losses and injuries by such captures, for said company employed a great number of men, some of whom had families depending upon those supplies, which could not be obtained in the mines; and deponent knows of other, and more flagrant acts against the lives of their employees, and depredations upon the property of said company, by the said authorities, such as the capture of a train of mules and supplies belonging to said company, and the murder of its conductor, or captain in charge of the same, from the fact that he, the said captain, or quartermaster, has never yet been heard from nor found; and of still another, of the murder of another captain, or conductor, of one of the mule trains of said company, who was, at the time, traveling alone, and not in charge of his train of mules, and whose name deponent believes was *Grove*, and whose mutilated body was found where he had been foully and cruelly murdered, at a place called "Can de'ero Creek;" that this last-named occurrence is well known and acknowledged, he believes, by all citizens and authorities in Sinaloa and Durango, and cannot be denied; that said *Grove* was supposed to have a large amount of said company's money in his possession, and that the scouts belonging to said army followed him from San Ignacio to the place where his body was found, a number of bullets having passed into and through his body, mangling and mutilating it at a fearful rate.

Deponent further says that the machinery shipped or forwarded to said company at Tayoltita, was a very large ten-stamp mill, and all the necessary machinery thereto belonging; that said company was frequently compelled to pay forced loans, or "prestamos," levied upon their said property, machinery, and supply trains, while the same were passing through from Mazatlan to their mines in Tayoltita, Durango, to the knowledge of deponent. But although deponent was cognizant of many of said forced loans, while he was so engaged in the work of forwarding said machinery and supplies, still he cannot recollect the several sums so exacted and paid, nor the names of the officers of said army who made those exactions, with sufficient certainty to be able to testify on the subject of forced loans, satisfactorily to himself or to said company, except in the cases already named.

And deponent further says, that the plantations of said John Cole, and deponent were made by said La Abra Company their headquarters for receiving and forwarding of machinery and supplies to their mines and large mining operations aforesaid, as Camacho was, at that time, just outside the so-called "Imperial lines;" and, by

reason of this business intimacy with said company, he was well acquainted with the affairs of the company, and their treatment aforesaid.

Dep.hent further says, that he has no interest, direct, contingent, or otherwise, in the claim of La Abra Silver Mining Company against the Republic of Mexico, to support which his testimony is here given, and that he is not the agent or attorney of said company, nor of any person having such interest. And further this deponent says not.

(Signed)

WILLIAM G. S. CLARK.

Sworn to and subscribed before me, this 14th day of May, A. D. 1870.

[U. S. CONSULAR SEAL.]

(Signed)

ISAAC SISSON,

U. S. Commercial Agent.

REPUBLIC OF MEXICO, STATE OF SINALOA,

Port of Mazatlan, Office of the U. S. Consulate, ss :

I, Isaac Sisson, commercial agent of the United States of America, in and for the port of Mazatlan, and its dependencies, in the Republic of Mexico, do hereby certify, that William G. S. Clark, whose deposition is herein above contained, attended before me, at the office of the United States consulate, in said port of Mazatlan, Mexico, on this, the 14th day of May, A. D. 1870, and that he was publicly and duly sworn by me, according to law, to tell the truth, the whole truth, and nothing but the truth, and thereupon he deposed and testified, in answer to the foregoing questions, as hereinbefore set forth; that said deposition was carefully read by me to said William G. S. Clark, and that he thereafter confirmed and signed the same in my presence.

And I do further certify that I am competent, by the laws of the United States of America, to administer oaths, and that I have special instructions from the Department of State of the United States of America, to take the depositions of witnesses, in behalf of citizen claimants of the United States against the Republic of Mexico, to be used in evidence before the Joint Commission of the United States of America and the United States of Mexico, appointed under and by virtue of the convention of July 4th, A. D. 1868; and I do further certify, that said deposition was reduced to writing by C. Lanusa, in my presence, and that said Lanusa has no interest, and is not the agent or attorney of any person having an interest in said claim.

And I do further certify that I know, and am personally acquainted with William G. S. Clark, the above-named affiant, and I certify to his respectability, and to his credibility as a witness, and that his statements are entitled to full faith and credit.

And I do further certify, that I have no interest, direct, contingent or otherwise, in the claim to which said deposition relates, and that I am not the agent or attorney for La Abra Silver Mining Company, nor for any person having such interest.

Given under my hand, and the seal of the consulate of the United States of America, this the 14th day of May, A. D. 1870.

[SEAL OF THE U. S. CONSULATE.]

(Signed)

ISAAC SISSON,

U. S. Commercial Agent.

Doc. No. 23.

In the matter of the claim for damages of La Abra Silver Mining Company against the United States of Mexico; deposition of James Granger on behalf of claimants to be submitted to the Joint Commission of the United States and Mexican Republic, in session at Washington City, D. C.

UNITED STATES CONSULATE, PORT OF MAZATLAN,

State of Sinaloa, Republic of Mexico, ss :

Personally appeared before me, Isaac Sisson, United States commercial agent, in and for the port of Mazatlan and its dependencies, James Granger, a witness introduced on the part and behalf of claimants, who having been first duly sworn by me according to law, deposes and makes oath to the following statement, viz :

My name is James Granger; I am forty-two years of age; I was born in Scotland, kingdom of Great Britain; I am residing in San Dimas, district of San Dimas, State of Durango, Mexico. I know the company called "La Abra Silver Mining Company," and knew the superintendents and employees of the same, while said company was mining and carrying on their large mining operations at and near Tayol-

tita, in said district of San Dimas; I was one of the assistant superintendents, and was, also, clerk of said company for about two years, and I had all the memorias, showing the names of all the men working for said company, in their mines and other work done in and about their mining works, each week. I speak and understand the Spanish language, well.

I know General A. W. Adams, attorney for said company. I was present in the room of the court of the *Jues de Primera Instancia*, or Judge of the First Instance, at said San Dimas, in the district of San Dimas, State of Durango, Mexico, on or about the 2nd day of May, 1870, and I commenced to act for said Adams as his interpreter to the judge, or for both parties, in the taking of depositions by said Adams, as attorney in behalf of said "La Abra Silver Mining Company," but the said judge, whose name is Anastacio Milan, refused, in my presence, to take depositions at all while either myself or said Adams was present, and ordered us out of his court-room. Said Adams, not being able to speak Spanish, requested me to ask said judge if he would take the depositions of the two witnesses then before the court, in accordance with the provisions of the joint rules for taking depositions, which had been made by the Commissioners of the United States and the Mexican Republic, in obedience to a treaty, or convention between those two Republics; a copy of the treaty and the rules were presented to the judge by said Adams, and he asked said judge if he would be kind enough to make the certificate of the court also in accordance with the requirements of said rules, as the Commission, he said, had authority in the treaty for making the rules, and said Judge Milan replied that he would not, that he would do neither; that he had nothing to do with the treaty mentioned by said Adams, he said, and nothing to do with the joint rules, and he would not respect or obey them. He admitted, however, that he had read the treaty and rules, and that he understood them. The said Adams then asked said judge, through me, as interpreter, if he, the judge, would obey the treaty itself, and the said judge, Milan, answered, *that he would not*; that he had nothing to do with the treaty, and did not intend to respect or obey it.

Deponent then retired from the court-room, leaving Col. F. Dana as interpreter.

One of the witnesses spoken of above, Aquilino Calderon, who had, to my knowledge, worked for La Abra Company, at Tayoltita, more than two years, his name borne on most of the memorias during that time, when he was summoned before said judge, seemed so affected, he having heard the judge order him, said Adams, and myself, out of the court-room, that he actually swore, in effect, that he had never worked for the company at Tayoltita; that he had only worked at Ventanas and Buena Vista during the five years last past.

69 I then became perfectly well satisfied that no depositions could be taken in that district in support of the claims of American citizens. I know the fact that the feeling there, on the part of citizens and authorities, is intense and hostile to American citizens mining in that district, and especially so to the taking of testimony to support the claims of Americans who have been deprived of their mines and property by acts of Mexican citizens and authorities.

And further deponent sayeth not.

(Signed)

JAMES GRANGER.

Sworn to and subscribed before me, this 23d day of May, A. D. 1870.

[SEAL OF THE U. S. CONSULATE.]

(Signed)

ISAAC SISSON,
U. S. Commercial Agent.

(Here follows, in the original on file, a certificate of United States commercial agent to the proper taking or execution of the deposition; to the respectability and credibility of the witness, and that his statements are entitled to full faith and credit.)

Doc. No. 20.

In the matter of the claim for damages of La Abra Silver Mining Company against the Republic of Mexico. Deposition of Francis F. Dana on behalf of claimants. To be submitted to the Commissioners acting under the Convention of July 4th, 1868. In session at Washington, D. C.

CONSULATE OF THE UNITED STATES,

Port of Mazatlan, State of Sinaloa, Republic of Mexico, ss:

Personally appeared Francis F. Dana, who, having been by me first duly sworn, according to law, deposes and testifies, as follows:

My name is Francis F. Dana; I am forty-eight years of age; I was born in the town and county of Athens, in the State of Ohio, in the United States of America; I

now reside in Mazatlan, State of Sinaloa, Mexico; my occupation is that of a miner; I resided, at the time of the events about which I am called upon here to testify, in the said port of Mazatlan, and was of the same occupation. I was a lieutenant colonel in the Mexican army during the late war between Mexico and the French, and traitors. I know A. W. Adams, attorney for La Abra Silver Mining Company.

I accompanied said Adams from Mazatlan, Sinaloa, to San Dimas, State of Durango, Mexico, within the last two months, as his interpreter, and as chief of his guard. I was present with said Adams, at San Dimas, in the State of Durango, while he was taking, or trying to take depositions there, in support of the claim of La Abra Silver Mining Company against the Republic of Mexico, and as I speak, read, write, and understand perfectly well the Spanish language, I had an opportunity, while mixing freely with the people, and with the judges of the courts, and the prefect at San Dimas, to learn the real feeling with said authorities and people, in regard to the possibility of American citizens carrying on mining operations there.

After being in San Dimas but one week, I came to the conclusion that it is not safe for any citizen of the United States of America to even attempt mining operations in that district, with the slightest hope of security of life or property, nor with any thought of protection. I was present in San Dimas, and assisted said Adams as interpreter and translator, in preparing his application to the judge of first instance,

of San Dimas, to take the depositions of two witnesses, whose names were 70 Aquilino Calderon, and Henriquez. The said judge of first instance, when he found out that the witnesses were to be examined before him, became suddenly ill, and actually locked up his store, and refused to see any one. I called on him, and sent my name, and he said he was very sick. This went on for two or three days, and finally said Adams announced that he should stay there until the judge recovered from *his illness*; that he was determined to take the testimony of the witnesses, when the said judge *became suddenly well*, and said he "would attend to the matter, but it was perfectly useless for said Adams to try to get the testimony of Mexican witnesses, against their country, for they would give no testimony that would do him or his case any good, or reflect upon Mexican authorities."

The next day the case was called, but I saw by the actions of the two witnesses that they had been talked to, and they seemed much frightened.

The feeling there, on the part of the authorities and the people, was up to fever heat, and I feared that violence might be used against said Adams before he could get away from San Dimas.

I went with said Adams to the court-house; the witnesses came into the court-room, and were so badly frightened that they shook like an aspen leaf; and when Calderon was called up to testify, either from fright or from design, he actually denied that he had worked for La Abra Silver Mining Company within the past five years, but said that he had worked during that time only at Ventanas and Buena Vista, although Mr. Granger, one of the principal clerks of said company, was sitting before him, and claimed that the name of this man Calderon was on their rolls for two years and more, and that he knew him perfectly well, as one of their old employees.

At this point, General Adams requested me to ask the judge of first instance, who was presiding in said court, and whose name is Anastasio Milan, to put the question to the witness again, that he might understand it, claiming at the same time that the witness could not have understood the question; but Judge Milan declined to read the question a second time to witness, and remarked that he thought the witness understood the question, and would not ask it again, or give him any chance to explain the matter, and hereupon General Adams, attorney for said company, asked said judge to abandon the examination of the said witnesses, and declined to take their depositions; but said judge remarked that he would not abandon the examination, under any circumstances, that he would finish their depositions now, whether the attorney wanted them or not. Said Adams then asked said judge if he, the judge, would take the depositions, and make his certificate in accordance with the printed rules of the American and Mexican Joint Commission, handing a copy of said rules to said judge, at the same time, who refused to take them, and said *he would not*. Said Adams then offered said judge a correct copy of the *treaty, or convention*, of July 4th, 1868, between the United States and the Mexican Republic, and asked said judge if he would obey the treaty itself, and said Adams announced to him, the judge, that the rules of the Commission were made by authority, and the presiding judge remarked, thereupon, that he knew all about the treaty, or convention, of the 4th of July, 1868, and the rules of the Commission too; that he, Judge Milan, had a copy of both, but that he did not respect said treaty, and would not obey it; that he had nothing to do with the Commission at Washington, and did not want anything to do with it, and that he would not obey them; and at this moment said Judge Milan ordered deponent, and also said Adams, out of his court-room, and stated that

71 he, deponent, and said Adams, had no business there; that he, the judge, could read the interrogations to the witnesses, and that said Adams and deponent had no business there; but finally he said that he would allow said Adams to be

there, as he did not understand the Spanish language, and could not tell what was going on in the court-room.

Deponent further says, that from the conduct of this evidently prejudiced judge and the remarks he made on that occasion, in the presence of the witness, Calderon, he is not surprised that said witness ignored the fact that his name had been borne upon the rolls, or memorias, of La Abra Silver Mining Company for over two years, or that he declared that he knew nothing of the company or its mining operations. Deponent saw and heard enough, at San Dimas, during the six days he was there, waiting the action of the authorities, upon the application of said Adams to take the depositions of the witnesses named, to satisfy him that no testimony can be taken, and that none will be allowed to be taken by the judges of that district, which would do La Abra Silver Mining Company any good, or reflect upon the authorities of that district, for any part they may have taken in the driving out of said company from their mining operations at Tayolita; and deponent is also satisfied that said Judge Milan had proved this fact when he said in my presence "General Adams had as well return to his country, for he shall get no witnesses here to swear against their country, and no testimony that will injure Mexico, or do his company any good;"—"this he may rely upon;" and his subsequent conduct on the bench, when he refused to obey the treaty between Mexico and the United States, or the rules made in pursuance thereof, proves to my mind clearly that he knew the influence he was capable of exerting in that direction.

I have no interest, direct, contingent, or otherwise, in the claim of La Abra Silver Mining Company against Mexico, to support which my testimony is here given, and I am neither agent or attorney for said company, nor for any person having such interest. And further deponent sayeth not.

(Signed,)

FRANS F. DANA.

Sworn to and subscribed before me, the 27th day of May, A. D. 1870.

[SEAL OF THE U. S. CONSULATE.] (Signed)

ISAAC SISSON,
U. S. Commercial Agent.

[Here follows the certificate of Isaac Sisson, the United States commercial agent for Mazatlan, to the credibility and respectability of the witness, and that his statements are entitled to full faith and credit; also certifying the lawful taking, and acknowledgment of the affidavit.]

Doc. No. 17.

Deposition of Don Juan Castillo de Valle as to sale of property to the company.

Felipe Villareal, notary public.—I certify, that on this day personally appeared before me, the undersigned, Don Juan Castillo de Valle, a Spaniard, and merchant of this place, personally known to me to be the same, and set forth:

That in September, 1865, he sold to a company styled the "Abra Silver Mining Company," the mining enterprise at the mineral of Tayolita, district of San Dimas, State of Durango, comprising the mine of the Rosario, in which is included the La "Luz" mine, "El Cristo," Los "Inocentes," and "Arayan," together with the "Sanz" and "Talpa" mines. The reducing works of "San Nicolas" and Lower Chica for the sum of \$50,000, which was paid to him in American gold, to his entire satisfaction. That he also sold the same company the stock and fixtures of the store, for which the payment was made, at \$7,000, which was also paid to him in American gold.

Mr. Castillo de Valle further states that, as the lawful attorney of Don Antonio Arayaza, and Don Francisco Yzurieta, he sold to Messrs. Thomas J. Bartholow, J. Garth, and George Griffith, the mining enterprise located in Guarisamey, district of San Dimas, consisting of "Nuestra Señora de Guadalupe del Promontorio," and the reducing works of "Tamborlita de Arriba" and "Tamborlita de Abajo" for the sum of \$10,000, which was paid to him, in cash, in American gold at the port of Mazatlan.

That by virtue of these sales, he delivered title-deeds of possession and ownership of the aforesaid mines and reducing works, to their lawful owners, aforesaid, in the presence of José Antonio Aldrete, notary public of Mazatlan.

In witness whereof, Juan Castillo de Valle signs these presents, with me, which I issue at the request of A. W. Adams, a citizen of the United States, and attorney of said Abra Silver Mining Company, for such purpose as may serve his rights.

Dated, city of Durango, May 9th, 1870.

(Signed) "JUAN CASTILLO DE VALLE," "FELIPE VILLAREAL,"
Notary Public.

(Here follows, in the original on file, the certificate of Jesus Hernandez y Marin, constitutional governor of the State of Durango, to the signature of the notary, Villareal, dated Durango, May 11th, 1870.)

Doc. No. 15.

In the matter of the Claim for damages of "La Abra Silver Mining Company" against the Republic of Mexico. Deposition of John P. Cryder on behalf of Claimants. To be submitted to the Joint Commission of the United States of America and the United States of Mexico in session at Washington, D. C.

CONSULATE OF THE UNITED STATES, PORT OF MAZATLAN,
State of Sinaloa, Republic of Mexico, ss :

Personally appeared before me, Isaac Sisson, United States commercial agent, in and for the port of Mazatlan and its dependencies, on this 24th day of May, A. D. 1870, at 2 o'clock in the afternoon, at my consular office, in said port, John P. Cryder, who, having been introduced as a witness on the part and behalf of claimants in the above-entitled matter, and having been by me duly sworn according to law, to tell the truth, the whole truth, and nothing but the truth, in relation to the matters and things which he is called upon to testify, makes oath to the following statement, to wit:

My name is John P. Cryder. I am forty-nine (49) years of age. I was born in Calcutta, in British India. I reside, at present, in Limon, district of San Ignacio, State of Sinaloa, Republic of Mexico. My occupation is that of a miner and farmer, and I sometimes practice law, but have not done much of that in this country. At the time of the events about which I am here summoned to testify, I resided, and was doing business temporarily, at Tayoltita, district of San Dimas, State of Durango, Mexico, and was employed there by a mining company called "Nuestra Señora de Guadalupe Gold and Silver Mining Company," whose mines, hacienda, stamp-mill, and other works, were situated about one league from the town or village of Tayoltita.

I was employed there as one of the assistant superintendents of said work, and was so employed from January, 1868, or the last of December, 1867, up to about the first of March, 1868, and remained in and about Tayoltita until about the last of March, 1868. I know the mines and mining works of La Abra Silver Mining Company, or I did know them in the year 1868, when I was engaged in business there. They are situated at Tayoltita, in the mining district of San Dimas, in the State of Durango, Mexico. I was engaged for some months as one of the assistant superintendents of the Nuestra Señora de Guadalupe Gold and Silver Mining Company, a neighboring mining company.

John Corell was chief superintendent of our mines and works. They were within a few minutes' walk of La Abra Silver Mining Company's hacienda, stamp-mill, and reduction works. I had a good opportunity to know what was going on there in the winter and spring of 1868.

I was frequently at the hacienda of said La Abra Company's works, and intimately acquainted with Mr. Exall, superintendent of said Abra Company. I know their mines, called "La Luz," "El Cristo," "Sanz," "La Abra," "Rosario," "Talpa" or "Tapia," and "Arrayan," which belong to that company—all situated within about one league of their hacienda and reduction works at Tayoltita aforesaid.

Their said mines are exceedingly rich with silver, and valuable mines, and their lodes, or veins of abundant supply.

La Abra mine, alone, as it was said and generally believed by good judges there, was worth more money than said La Abra Company paid for all their mines. I do not, of my own knowledge, know the exact amount paid for all of their mines at Tayoltita, but I have heard from good authority at Tayoltita that they paid Don Juan Castillo de Valle fifty-seven thousand dollars (\$57,000) for a number of the mines belonging to them; and that they also paid to a Mr. Luce, and one Hardy, of California, thirty-two thousand dollars (\$32,000) for La Abra mine; all of their mines, property, and works, possessed under the title of, and were known and called "La Abra," at Tayoltita; said company had there, when I knew them, a large ten-stamp mill, mill-house, mill-races, hacienda, out-buildings, and reduction works of the largest kind.

Their improvements, including stamp-mill, mill-house, mill-races, patios, and other buildings there, must have cost said company, as I should judge, not less than from three to four hundred thousand dollars.

When I left Tayoltita, about the last of March, 1868, said La Abra Silver Mining Company no longer had existence in the said district of San Dimas; they were broken up by the interference and molestations of the Mexican authorities in that district, and the capture of their mule-trains, provisions, and supplies, by the military authorities of the Republic, while said trains were coming up with said supplies from Mazatlan.

I was, myself, a witness to an outrage upon the superintendent of that company, Mr. Charles H. Exall, who was, to my own knowledge, improperly and unlawfully

arrested and imprisoned by the local judge, or "juez" at Tayoltita. I was present when said arrest was made, and I was also present at the hacienda of said La
 74 Abra Company when the cause, or excuse was given, which appeared to me like a miserable pretext for said arrest. It was this: Said Superintendent Exall was sitting in his private room at the hacienda, in consultation with some man on private business, when the said "juez" walked into an adjoining private store room, without knocking or being invited in, and Mr. Exall remarked to said "juez" that it was his private store room, and if he, the "juez" wished to see him on business, he, Exall, would go out and see him, or words to this effect.

These remarks were made in a pleasant and gentlemanly manner, which should have given no offense to any reasonable man, but said "juez" remarked that his dignity was insulted, or something to that effect, and that he would have satisfaction, or that he Exall, would hear from him; and about half an hour after the occurrence named I saw an armed guard come with the orders of said judge, or "juez," and arrested Superintendent Exall, and took him before the judge.

I followed him, and I heard the said local judge, Nicanor Perez, order said Superintendent Exall to be imprisoned in the hacienda that night, with a guard over him; and said judge sent for said Exall the next morning to appear before him, which he did, in charge of a guard, and the moment he entered the court room I heard the said judge call him, Exall, very bad names, and he poured out upon him the most vile epithets in the Spanish language, abusing him in the most shameful manner; all of which Mr. Exall seemed to bear without losing his temper; and said judge, after he had exhausted the vocabulary of abusive epithets, as I thought, then turned to said Exall and announced his determination to carry out the sentence of imprisonment for two months in the common jail at San Dimas, and fifty dollars fine, but at the same time ordered the guard to compel said Exall to go all the way to San Dimas on foot, and not to allow him even to ride his own mule, saying the judge would learn the Gringos (as Americans are called) to treat him with deference and respect. He then ordered said Exall to be locked up that night in Tayoltita in an old uninhabited house that was said to have been occupied by diseased persons. It did seem to me that nothing was too bad for said judge to say and do against said Exall. The next morning I visited said Exall, in company with an Englishman, whose name was James Granger. This Mr. Granger, not being an American, but an Englishman, had some influence with Judge Perez, although he was in the employ of the company, and he was permitted to call on the prisoner. He invited me to go with him, and I did so; we found Mr. Exall, a gentleman of refinement, busily engaged in the work of defending himself from the attacks of millions of fleas. The house where he was confined had a most disgusting smell, and was filthy beyond description.

It was said by the people there that this old house had been but recently occupied by persons of loathsome diseases, and that the judge knew this fact when he sent Mr. Exall there.

This seemed to create so much sympathy and feeling at Tayoltita in favor of Mr. Exall, even with those natives and unemployed workmen who were in favor of driving said company away from the country, that Mr. Granger managed, with some influences unknown to me, and by securing the payment of the fine, to get Mr. Exall released from this vile prison house; and I do not know what became of the case after that.

I spoke and understood the Spanish language, well, at that time, and have so spoken and understood Spanish for nine years last past. I know, and have
 75 talked with Judge Soto, Guadalupe Soto, of Tayoltita. In the winter of 1868, I heard said Soto say that he was in favor of driving said La Abra company out of Mexico, and all the rest of the Gringo companies. He was intimate with the prefect, in 1868, Macario Olvera, and it was said that Olvera, the prefect, was engaged to be married to the daughter of said Judge Soto, and that said marriage did take place subsequently, but of the last-named facts with regard to said marriage, I have no personal knowledge.

I heard said local judge, Nicanor Perez, say he would "run that La Abra Silver Mining Company out of Mexico." He said that "the mines of Mexico belonged to Mexicans," and that his Government had no right to permit the "Gringos," as he called Americans, "to come here and carry off all the best of their metals," and that "the people," he said, "would take care that the ores of La Abra mines don't go away in the hands of these Gringos," and he, the judge, Nicanor Perez, would see that the people of Mexico shall have the benefits of these locos ('fools') investments.

I recollect that his remarks were made in a prejudiced and determined manner, and in the form of a threat, that he would encourage any act, if necessary, to carry his point against that company, and I so understood it, and communicated the facts to some of the American employees there. This was in February, 1868. I afterwards told Mr. Exall of the threats of the juez.

I also heard Macario Olvera, the prefect or Gefe Politico of the district of San Dimas at that time, February or March, 1868, say that "La Abra Silver Mining Com-

pany could not stay in that district;" that "it would be impossible for them to do so." This was at San Dimas; he did not say, positively, what course he would pursue, but he said the authorities were determined to get rid of that company, and they could not stay there and work those mines; he said it would be better for that company to give up their mines and leave the country "before any accident should happen," for which, he said, "the prefect would not be responsible." I asked him what he meant by making use of the word "accident," in that conversation, and he made an evasive reply which satisfied me that mischief was meant, either by the prefect himself, or by the people or local authorities, with the acquiescence of said prefect. This said Macario Olvera was, at the time this conversation took place, February or March, 1868, the official and acting prefect of that district. He was called "Gefe Politico." The Gefe Politico of a district, in any part of Mexico, is the chief authority, civil, military, and political. I know a man must possess great nerve if he dares to oppose the will of the "Gefe Politico," in any district of this country. The intimations of difficulties, or "accidents," made by said Gefe Politico against La Abra Silver Mining Company, were made in the presence of two or three Mexicans, who evinced immediate approval of said remarks, and considerable of feeling. My suspicions were at once aroused, that Superintendent Exall might be in great danger, and that other "accidents" might happen, and I told Mr. Exall, the first time I saw him after this conversation I have related with said prefect.

It was rumored, and indeed reported by nearly all Mexicans at Tayoltita, and San Dimas, that said La Abra Company, and their officers, were in favor of the annexation of Durango, and other western States, to the American Union, and this report was industriously kept up by Mexicans for some weeks before Superintendent Exall abandoned the company's mines and property, and the feeling there with Mexican authorities seemed to be hostile, and I was satisfied that said company could not stay there, and work their mines, with safety to life or property.

There was no truth in the report, circulated so industriously by Mexicans, that this company, or any of its American employees, were in favor of annexation, or that any of them had ever interfered politically, or even discussed that question, so far as I could find out, and they all denied, to me, having any such ideas, and treated the matter as ridiculous when I told them of the bitterness of the Mexicans aforesaid, on that subject; and the superintendent said it was a falsehood, and a mere pretext by which the authorities could excuse themselves for driving the company away from the country, and get their property. I have no interest, direct, contingent, or otherwise in said claim, to support which my testimony is here given. I am neither agent nor attorney of said company, nor for any person having such interest.

(Signed)

JOHN P. CRYDER.

Sworn to and subscribed before me, this 24th day of May, A. D. 1870.

Witness:

(Signed,)

ISAAC SISSON.

[Seal of the U. S. Consulate.]

U. S. Comm'l Agent.

REPUBLIC OF MEXICO, STATE OF SINALOA,

Port of Mazatlan, Office of the U. S. Consulate, ss:

I, Isaac Sisson, commercial agent of the United States of America, in and for the port of Mazatlan and its dependencies, in the Republic of Mexico, do hereby certify, that John P. Cryder, whose deposition is hereinabove contained, attended before me, at the office of the United States consulate, in said port of Mazatlan, Mexico, on this, the twenty-fourth day of May, A. D. eighteen hundred and seventy, and that he was publicly and duly sworn by me according to law, to tell the truth, the whole truth and nothing but the truth, and thereupon he deposed and testified, in answer, as hereinbefore set forth; that said deposition was carefully read by me to said John P. Cryder, and that he thereupon confirmed and signed the same in my presence. And I do further certify, that I am competent by the laws of the United States of America, to administer oaths, and that I have special instructions from the Department of State of the United States of America, to take the depositions of witnesses in behalf of citizen claimants of the United States against the Republic of Mexico, to be used in evidence before the Joint Commission of the United States of America and the United States of Mexico, appointed under and by virtue of the convention of July 4th, A. D. 1868.

And I do further certify, that said deposition was reduced to writing by C. Lanusa, in my presence, and that said C. Lanusa has no interest, and is not the agent or attorney of any person having an interest in said claim.

And I do further certify, that I know, and am personally acquainted with John P. Cryder, the above-named affiant, and I certify to his respectability, and his credibility as a witness, and that his statements are entitled to full faith and credit.

And I do further certify, that I have no interest in the claim to which said deposition relates, and that I am not the agent or attorney for La Abra Silver Mining Company, nor for any person having such interest.

77 Given under my hand and the seal of the consulate of the United States of America, this the 24th day of May, A. D. 1870.

(Signed,)

[Seal of the U. S. Consulate.]

ISAAC SISSON,
U. S. Commercial Agent.

Document No. 24 C.

Deposition of José Maria Loaiza, on behalf of the claimant, to be used before the Joint Commission appointed under the Convention of the 4th of July, 1868, now sitting at Washington, D. C.

UNITED STATES CONSULATE, PORT AND CITY OF MAZATLAN,
State of Sinaloa, Republic of Mexico, as:

Before me, Isaac Sisson, commercial agent of the United States for the port of Mazatlan and its dependencies, in the Republic of Mexico, personally appeared José Maria Loaiza, who, having been duly sworn according to law, to speak the truth, the whole truth, and nothing but the truth, as a witness on behalf of the Abra Silver Mining Company, the aforesaid claimants, deposed as follows, in reply to the following interrogatories, which were read to him:

1st question. What is your name; how old are you; where were you born; where do you reside, and where did you reside and what was your occupation during the summer of the year 1865, and up to about April of 1868?

Answer. My name is José Maria Loaiza; I am forty-four years of age; I was born at the town, and in the district of San Ignacio, State of Sinaloa, Mexico, where I have constantly resided with my family, during the last sixteen years, in my own house and on my own lands. My occupation has been that of a miner, muleteer, and merchant. During the last five years I have been a merchant and a muleteer, and have transported machinery, provisions, and other articles for the mining companies, to different parts of Durango and Sinaloa; have purchased provisions and other articles for the mining companies, and transported them, upon mule trains, to their places of business at the mineral of San Dimas, and other mining towns in the States of Sinaloa and Durango, in the Republic of Mexico. I performed this kind of service for the Abra Silver Mining Company, particularly during the years 1865, '66, and '67, and the beginning of 1868.

2d question. Do you know the company, called the "Abra Silver Mining Company," and their mines and property? If yea, then state what they did, or caused to be done; whether they did anything, or caused anything to be done, and all you may know concerning the said company; where their mines were located, what you may know concerning them; the preparations made by them to work them, and the particulars of their mining operations, if you know the details?

Answers. I am acquainted with some members of the "Abra Silver Mining Company," and am well and intimately acquainted with three of the principal superintendents, General Thomas J. Bartholow, Col. de Lagüel, and Chas. H. Exall.

The company employed me, at different times, from the end of 1865 up to about the end of March, 1868, when the company was compelled to abandon its mining operations at Tayoltita. I know the mines belonging to the said company, which are located at, or very near Tayoltita, in the mineral of San Dimas, in said district, State of Durango, Republic of Mexico.

78 I am well acquainted with the greater part of the mines belonging to the said company, and have witnessed frequent assays made of the ores, which were very abundant and rich in silver, with a small percentage of gold. The mines which I have examined, and am personally acquainted with, belonging to the Abra Silver Mining Company, while I was employed by them, are "La Luz," "El Rosario," "El Cristo," "La Abra," "Arayan," and "Talpa," or "Tapia," as this last was usually called. I believe that they are all valuable mines, and yield, as I am informed, from 3 to 6 marks per carga. Of course, some yield much more in certain parts of the veins; but the aforesaid I consider a just average, and I believe that the Abra, and Rosario mines, with a properly constructed adit, would give an average of double, or, perhaps, treble the said quantity of pure silver.

The Abra Silver Mining Company employed me to assist John Cole, of Camacho, and others, in transporting their heavy machinery, and their large and costly ten-stamp mill, from Mazatlan to Tayoltita, San Dimas, which was done upon mules,

which is a slow and costly mode of transportation, over rocks and mountains, full of precipices, a distance of 65 leagues in the dry season, and 73 leagues in the rainy season, when we were compelled to transport the ten-stamp mill, machinery, and other articles, across mountains, thousands of yards high, and over the most dangerous roads I have ever seen.

I know that the said company expended large sums of money in transporting the machinery and implements from Mazatlan to their mines in Dnrago, and I think that they employed from one hundred to one hundred and fifty men in the works, at their mines underground, and in repairing the reducing works, and preparing their mining operations, on a grand scale; they must have expended, in my judgment, from the cost of the material, implements, and the cost of transportation to their mines, and in the extraction of the great quantity of ores, which they left abandoned at the reducing works at Tayoltita, not less than half a million of dollars, and perhaps much more. The said company employed me to purchase and transport to Tayoltita, 200 cargoes of salt, for the operators of said company, which I purchased and transported to Tayoltita. I also purchased for the said company, and carried to their mines, large quantities of corn, meat, lard, sugar, and other provisions, during the years 1865-66, and part of the year 1867.

I also know what the said company did, and how they were treated by the Mexican civil and military authorities. Many of the mule trains, belonging to the said company, were captured by the Republican army, under the command of General Corona, and kept for the use of the said army.

I know that they took, as I have stated, one of the trains which was carrying provisions for the company, and it is also supposed that they robbed it and killed the muleteer, as he has never been heard of since.

This depredation occurred while Thomas J. Bartholow was superintendent of the company, at the end of 1865, or the beginning of 1866. A short time afterward, one Grove, the muleteer of another train, employed by the company, was found brutally murdered by the people of the country, on the road to the mines where he was going, at a place called "El Arroyo del Candelero," between San Ygnacio and San Dimas, where his body was found, horribly mutilated.

I have heard of other trains of mules, which were employed by the company, as having also been taken by the said forces for the use of the army, but I cannot say how many trains they took in all, because I do not know.

I have heard parties whom I knew as officers and soldiers of the said army, laughingly say, that the Abra Silver Mining Company was a very good provider and quartermaster for supplying the army, and I am confident that they participated in the said depredations, or robberies. The company must have lost a large amount by these captures, but I do not know how much.

I know that when the company abandoned their mines and mining property, in the spring of 1868, that they had extracted a great quantity of silver ore—I believe from 1,000 to 1,500 tons—and that these ores, and also the reducing works, the mill, the mill-houses, the laborers' houses, the appurtenances of the mill, tools, &c., &c., were abandoned by the company in March of 1868.

I also know that the company constructed very expensive conduits for water, and other necessary works for the proper working of the said mines.

3d question. Do you know any other reasons than those already stated by you, why the said company abandoned their mines and property? If so, state what you may know upon the subject.

Ans. Yes; I know from what was commonly reported at the time of their abandonment, and from the boasts made by some of my countrymen, of whose conduct I am greatly ashamed. I know that it was frequently stated by the Mexicans, and the authorities of San Dimas and the neighborhood, in 1866 and 1867, while I was working for the company, that they would drive the company away—that they would drive them from their mines, and obtain the benefit of their expenditures. I frequently censured my countrymen when I heard these threats, and they often answered me that they would kill me, or drive me away with the Americans, if I took their part, or talked about the matter.

I heard Marcos Mora, who was at that time jefe politico of the district of San Dimas, say that he would drive the Abra Silver Mining Company away from the San Dimas mines. This conversation took place at Tayoltita, near the reducing works, and I believe that it was at the end of 1866, or the beginning of 1867. I know that it is a fact, that there was a firm determination existing upon the part of all or nearly all, of the authorities of the district of San Dimas, to get rid of the said company. I know this from my frequent conversations, and the expression of the opinion of the people and the authorities, while I was employed by the company in transporting provisions and other articles for them, as I have stated.

I did not approve of this conduct towards the American Company, who had, in good faith, come to invest their capital, and develop the riches of our country, but

at times I appeared to approve, or rather allowed them to think I approved their evil plans against the Americans, in order to ascertain the reality of their intentions, and what might be the results to the company. I have heard the stepdaughter of Guadalupe Soto, the judge conciliador of Tayoltita, say, that she had also heard Marcos Mora, who was, at that time, gefe politico of the district, make these threats, and also her stepfather, who was the local judge of Tayoltita; but she said that her stepfather was a strong friend of General Thomas J. Bartholow, the first superintendent of the company, and, if it were not for this, that he, too, would have assisted in driving away the company, and that when Bartholow, the superintendent, was succeeded by another, that the judge strongly favored the plans of the gefe politico of the district, to drive the company away, take possession of their property, or place Mexicans over it. This lady, yesterday, here in Mazatlan, again repeated to me what I have just stated, and from all of the facts in my possession, as to the jealousy and dislike of the authorities and of the people towards the Abra Silver Mining Company, I am perfectly convinced of the truth of her statement.

4th question. Do you know, and can you swear to the handwriting and signatures of Marcos Mora, ex-gefe politico, or prefect of the district of San Dimas?

Ans. Yes; I know both his handwriting and his signature, which I have frequently seen in his official orders.

5th question. Is this order, or paper, in the handwriting of the said gefe politico, Marcos Mora, and do you recognize the signature to the said order as the genuine official signature of the said gefe politico, or prefect?

(The witness was here shown, by the consul, exhibit marked "X," with the consular seal affixed to the said order, and dated at San Dimas, July 10th, 1867, signed—"M. Mora.")

Answer. Yes; I recognize this paper; it is an order of the said Marcos Mora, given in his official capacity, and the whole of it, and the signature is, indubitably, the genuine handwriting and signature of the said Mora, who was, at the date of the said order, gefe politico, or prefect of the said district of San Dimas, and was so known and acknowledged by all persons residing there at the time.

6th question. Here are two other orders, or communications; do you recognize the handwriting and signature of either or both of them? and if you do, state whose handwriting it is, and whose signature appears at the foot of it?

(The witness was here shown, by the consul, exhibits marked "V and W," dated at Tayoltita, respectively, on the 4th and 24th of July, 1867, both having the consular seal of the United States attached to them.)

Ans. Yes, I recognize both as official documents of Guadalupe Soto, who was, at that time, and is now, judge conciliador at Tayoltita. Both are in his handwriting, and the signature is, indubitably, his, and the same as he uses in his official acts.

7th question. Were you acquainted with the late gefe politico of the district of San Dimas? and if you were, state, if you know, what were his connections with the family of the said Judge Guadalupe Soto, and anything else you may know with regard to his official conduct towards the Abra Silver Mining Company, as also that of Guadalupe Soto?

Ans. Yes, I knew the late prefect, or gefe politico of the said district. His name was Marcario Olvera, and he was killed, a few weeks ago, at San Dimas, in a quarrel with his own town's people. I believe that he was married to one of Judge Soto's family, at least it was so said and believed in the district. He was a great friend of Judge Soto, and I have heard him tell Olvera, the prefect, that they would never allow the Abra Silver Mining Company to renew their mining operations in the district. This occurred, it appears to me, during the rainy season, or summer of 1868, on the road near San Dimas, where I met him on horseback; it might have been, perhaps, in October or November of that year. I have also heard Guadalupe Soto

81 express himself in bitter terms of the Abra Silver Mining Company; and in the spring or summer of 1867 I heard him say that he was glad that the company was out of the country; that the Mexican Government had no right to permit the Gringos to hold the best mines in the country; that the mines in Mexico belonged to the Mexicans, and that all the — foreigners should be driven out of the country, and the mines be given back to the Mexicans. I recollect nothing further upon the subject.

8th question. Have you any interest, positive or contingent, or of any other kind, in the claim of the said company, in whose behalf you have given this deposition, or are you the agent or attorney of the company, or of any person who has any such interest?

Ans. I have no interest of any kind, positive or contingent, in the company's claim, nor am I the agent or attorney of the company, or any person who has any interest.

Adding, that I speak English sufficiently to understand and to make myself understood in conversation, as I have resided several years in California; but as I have been told that it is the same whether I made my deposition in English or Spanish, I

have preferred doing so in the latter language, although I have confidence in my knowledge of that language, and in Carlos F. Galan, the translator.

(Signed.)

JOSE MARIA LOAIZA.

Subscribed and sworn to before me on this 14th day of May, 1870.

(Signed.)

ISAAC Sisson,
United States Commercial Agent.

[Seal of U. S. Consulate.]

[Here follows, in the original, the affidavit of the translator, Carlos F. Galan, to the proper and lawful taking of the foregoing deposition, and to the signing of the same.]

[Here follows, in the original, certificate of the United States Consul, to the proper taking of the foregoing deposition, and to the responsibility and credibility of the witness, Loaiza. W. C. T., official translator.]

[Seal of U. S. Consulate.]

Doc. No. 22.

La Abra Silver Mining Company against The Republic of Mexico. Deposition of Charles Bouttier on behalf of claimants. Respectfully submitted to the Joint Commission of the United States and Mexico, in session at Washington, D. C.

UNITED STATES OF AMERICA, STATE OF CALIFORNIA,
City and County of San Francisco, ss :

Charles Bouttier, being duly sworn according to law, to tell the truth, the whole truth, and nothing but the truth, deposes and says as follows, to wit:

My name is Charles Bouttier; I am forty years of age; I was born in Havre, in the Empire of France; I have resided in the United States of America for more than twenty years last past; I now reside in the city and port of Mazatlan, State of Sinaloa, in the Republic of Mexico; I have resided in Mexico for about sixteen years last past.

82 I know "La Luz," "El Cristo," "Sanz," "Talpa," "La Abra," and other mines at and near Tayoltita, in the mineral district of San Dimas, in the State of Durango, Mexico. I have been upon the ground, and have thoroughly examined those mines, and have tested their ores, with a view to making a purchase of the same, if possible. I examined them in the winter or spring of 1868.

I know the officers of the company who own those mines; I also know some of the owners, and especially General Thos. J. Bartholow, of Saint Louis, Missouri, and David J. Garth, of New York. I became acquainted with said Bartholow while he was acting as superintendent of said mines, in 1865 and 1866. It was in the early part of 1866 that I knew said Bartholow, at Tayoltita.

The company was called the "La Abra Silver Mining Company," and, as I understood, was organized under the laws of New York.

I saw a fine stamp-mill, and heavy machinery for the same, being transported to said company, on the backs of mules, under the superintendence of said Bartholow. I saw large trains of mules, loaded with said machinery, on the road between Mazatlan and San Dimas, and I also saw large trains loaded down with provisions and supplies for said company, at various times during the latter part of 1865, and during the years 1866, 1867, and 1868, up to the winter of the latter year; and I have heard from good authority that said company had some of its mule-trains and supplies captured or stolen by the troops of the Liberal or Juarez army, and that one or two of the officials in the employ of said company were killed by said troops in the work of securing their plunder or the supplies of said company. I know that those captures, or robberies as I should call them, were notorious at that time, and that the murder of Mr. Grove and another officer in the employ of La Abra Silver Mining Company, while attempting to defend the supplies under his charge at the time, whose name I have now forgotten, were freely talked of and generally understood in that part of Mexico, and I have heard Mexicans justify the acts I have named and say that it was a military necessity, and if the officer in charge of the provisions and supplies refused to give them up when the same were so much needed in the army, the troops did perfectly right to kill him and take the provisions.

There was very little feeling there on the part of Mexicans for American citizens and no regard paid to their interests. I have frequently heard Mexicans boast of having taken a hand in driving away La Abra Silver Mining Company from the mineral district of San Dimas. That company was very unpopular there, and they were much hated by Mexicans. I do not know of any cause for this hatred of the

company, except that said company had made large investments in the said district, and had put up the said machinery, and were preparing to carry on mining on an extensive scale, at Tayoltita, which seemed to create a feeling of prejudice and jealousy with Mexicans in that district, and I have frequently heard Mexican citizens at Tayoltita say, in the winter of 1868, that they would have that company driven out of the district.

I heard the prefect, Macario Olvera, say that it would be impossible for La Abra Silver Mining Company to stay there; this winter of 1868—I think in or about the month of February; it might have been as early as the last of December, 1867, or January, 1868. I do not recollect the exact date, but it was in the winter of 1867-1868.

It was the report at Mazatlan that said company was to be driven out of the 83 mines, which caused me to visit Tayoltita, in the winter of 1868, with a view to the purchase of them, before any other party should get hold of them, either by purchase or denouncement, and when I made the acquaintance of Mr. —, the superintendent, that winter, I very soon satisfied myself that they would be driven away, sooner or later, and I then went to the prefect to see what would be done, and he told me that the authorities there did not like La Abra company nor its officers, and that the company had better leave there soon or they would be driven away. He said he had advised some of the officers to quit and give up their mines, for if they did not he, the prefect, would not be responsible for consequences, etc.

I spoke to Mr. — about purchasing La Abra property and mines, and he said he had no authority to sell or dispose of the property or mines, but that I had better communicate with the company, at New York.

After my second interview with said prefect, however, which took place immediately after I had talked with Mr. — about the purchase, I became well satisfied, from the intimations given me by said prefect, of the "storm that was gathering around that company," as he called it, that the company would soon be dispossessed by force, and that they *would have nothing to sell*.

When I first went to Tayoltita, that winter, I tested, very thoroughly, the quality and supply of the ores of "La Abra," "La Luz," "Rosario," and "Talpa," and I partially investigated the value of the ores of the "—" and "Sanz" mines, all of them belonging to said company, as I know, for I have seen the titles on record, at San Dimas, (the denouncements,) and at Durango and Mazatlan.

The reason I investigated these mines, and the title to them so particularly, was, because I desired then to purchase them, in connection with other gentlemen who wished to form a company to work them, with me as superintendent.

The result of my examination of these mines, was, that I found "La Abra" almost an inexhaustible mine of rich ores, which, however, will require a large capital to work it profitably, as it should, in my judgment, be tunnelled, at a heavy expense, of course.

The ores I took from that mine were very rich of silver, and I am satisfied, if tunnelled, the ores would yield an average of, at least, six hundred dollars per ton, and perhaps more than that amount. The ores I tested averaged more than that average.

I also tested the other mines named, in the same way, and the ores of the others tested, beneficated me at the rate, or average, of about four hundred and seventy-five dollars per ton (\$475). I consider all of those mines exceedingly rich, and abundant in supply. La Abra property, altogether, is one of the most valuable properties in that district.

I saw, too, that it would require a large outlay of money to properly develop those "hidden treasures," for it is believed by all the skilled miners, of whom I consider myself one, that La Abra mine alone, is worth, to any company able to tunnel it, not less than a million of dollars. I believe the property of that company was, in the winter of 1868, worth largely more than two millions of dollars, including the large piles of rich ore they had taken out, which I saw there, piled up back of the hacienda of said company.

My profession is that of a miner, and has been so for twenty years, nearly. I am also a physician, and practical chemist, and I flatter myself that I possess 84 some knowledge of silver mining, having been engaged in that business for many years last past.

I have often been called upon to test the quality and supply of the ores of silver mines, both in the States of Durango and Sinaloa.

I was part owner, and worker of a mine, as superintendent, in the mineral district of Copala, in the State of Sinaloa, but was compelled to quit and abandon the same, by acts of the Mexican authorities, in the year —.

I have no interest in the claim of said company against the Mexican Republic, to support which my testimony is here given; and I am not the agent or attorney of said company, nor for any person having such interest.

And further deponent saith not.

(Signed,)

CHARLES BOUTTIER.

UNITED STATES OF AMERICA, STATE OF CALIFORNIA,
City and County of San Francisco, ss :

I, Michael Meagher, a notary public of California, in and for the city and county of San Francisco, duly appointed, commissioned, and qualified, do hereby certify, that on the fourteenth day of July, A. D. one thousand eight hundred and seventy, came before me, at my office, in said city and county, Charles Bouttier, who being by me first duly sworn to testify the truth, the whole truth, and nothing but the truth, did, under oath, depose and testify as set forth in the foregoing deposition; that the same was committed to writing by Wm. W. Lawton, who has no kind of interest in the claim, and that it was carefully read over by me to said deponent before signing, and thereupon the same was signed by him in my presence; and that I know the credibility of said deponent, and that he is a credible witness.

And I further certify, that I am competent to take depositions, by the laws of the State of California; that I have no interest in the claim to which said testimony relates, and that I am not agent or attorney of any person having such interest.

In witness whereof I have hereunto set my hand and affixed my official seal, the day and year in this certificate written.

(Signed,)

MICHAEL MEAGHER,

Notary Public in and for the city and county of San Francisco, California.

[Notarial seal.]

[Here follows, in the original, the certificate of Lorenzo S. B. Sawyer, clerk of the Circuit Court of the United States for the district of California, that said Michael Meagher was, at the time of executing the foregoing deposition, a notary public of the State of California, and certifying to his signature and seal as such, and that his acts are entitled to full faith and credit.]

[Seal of Clerk of Circuit Court of U. S. for California.]

Taken in 1872.

Declaration of Juan Castillo De Valle.

DURANGO, June 24, 1872.

To the First Judge of the Department of the Capitol:

A. W. Adams, a citizen of the United States, attorney-in-fact of La Abra Silver Mining Company, appears before you, and sets forth, that the rights of the said company require that you be pleased to examine, under protest of law, and in due form, Juan Castillo De Valle, in accordance with the interrogatory hereunto annexed, as I respectfully ask you to do, and that, after taking his deposition, the original be returned to me, to be presented to the Joint Commission now sitting at the city of Washington under the treaty made between the United States and Mexico, on the 4th of July, 1868.

Addenda.—I further state, that the present is accompanied by the power of attorney referred to at the beginning of this petition, which, after having been recorded, I request you to return to me, as it is a general one.

I pray you to grant my petition, which is just.

(Signed,)

A. W. ADAMS.

[Here follows, in the original, an entry of the presentation of the foregoing, on the 26th of June.]

(Signed,)

BARRAZA.]

[Here follows an order of the court, dated Durango, June 26th, 1872, directing the depositions to be taken as requested, which, being done, it to be returned to the petitioner. Make a record of the power of attorney now, and return it.]

(Signed,)

BARRAZA.

JESUS GOMEZ.

FERMIN MONRIEL.]

[Here follows an order of the notification of the above order to General A. W. Adams.]

[Here follows an entry of the record of power of attorney, as follows:]

"The power of attorney presented by A. W. Adams, a citizen of the United States, is executed in his behalf, in the city of New York, on the 11th of March, in the present year, before Henry Snell, a notary public, by George C. Collins, as president of the American mining company called 'La Abra Silver Mining Company.' It is gen-

eral, and contains special clauses to go to Mexico to obtain proofs in favor of the said company, in the matter of the claim which the said company have before the Joint Commission now sitting in the city of Washington, under the treaty between the Republics of the United States and Mexico, and also to obtain the title-deeds and other documents referring to the property of the said company, from the bureaus of the States of Sinaloa and Durango. The power is certified to by Juan Navarro, the consul general of the Republic of Mexico, in the United States, at the city of New York, on the 12th of March of the same year. Entry of it is here made, and it is returned.

"(Signed,)

PEDRO J. BARRAZA.

"DURANGO, June 26th, 1872.

"FERMIN MONRIEL. (Signed.)

"JESUS GOMEZ." (Signed.)]

[NOTE.—Owing to the length of the interrogatory, and with a view of facilitating the reading of it, and the deponent's answers, the answers are inserted after, and in reply to each interrogatory.

W. C. T., *Official Translator.*]

Interrogatory for the examination of Juan Castillo De Valle, in the matter of La Abra Silver Mining Company vs. Mexico.

1st. State your name, age, place of birth, employment, and residence?

Ans. My name is as before stated; I am of age; a native of Spain; a widower, a merchant, and resident of this place.

86 2d. State whether you know the American mining company called "La Abra Silver Mining Company," of New York. If you do, state whether you sold or transferred, under an indisputable title to the said company, at the mineral of Tayol-tita, in the district of San Dimas, State of Durango, the mines called "Nuestra Señora del Rosario," "La Luz," "El Cristo," "Los Santos Ynocentes," and part, or say five hundred and fifty feet, of the "Nuestra Señora de Guadalupe" mine, or whether you sold them to some other person for the said company? and if you sold them, for what amount did you sell them; when, where, and by whom was the money for the said mines paid?

Ans. I know of the existence of that company, as I am acquainted with some of the members of it, such as Mr. Thomas J. Bartholow and David J. Garth, to whom I sold the mines referred to in the question, for the said company, for the sum of fifty thousand dollars, which I received, to my entire satisfaction, at Mazatlan, and delivered them the title-deeds of the property and the possession which I had acquired, under full legal title.

3d. State whether you know the company called the "Nuestra Señora de Guadalupe Silver Mining Company; and if you do, state where the mines were, and where they were working? who sold the company their mines, and what were the names of the same?

Ans. I know the Nuestra Señora de Guadalupe Company referred to in this question, which was working at Tayol-tita, in the district of San Dimas, State of Durango; it was represented by Messrs. John Cole and John J. Correll, who worked the mine which bore the same name as that of the company which the deponent and his partner, Ygnacio Manjarrez, transferred to them to work, reserving only five hundred and fifty feet, which they subsequently sold to "La Abra Company," as stated in my previous answer.

4th. State whether the mines sold La Abra Silver Mining Company and "Nuestra Señora de Guadalupe Silver Mining Company" were duly and lawfully denounced by yourself; whether you were "given legal possession of them;" and if so, state whether the titles to the mines, or any part of them, passed from your possession previous to the sale of them to said company made by you?

Ans. All the mines before referred to were transferred to the companies under legal titles of possession, and no other person, from the time that I acquired them, had any other intervention in the possession or ownership of them, and consequently the lawful titles of ownership passed from the deponent to the said company.

5th. State whether you know that the expedientes of the said denouncements were duly presented to the State Department, at the capital of Durango; and state, if you know, what has become of the denouncements, if they are not there at present?

Ans. That, without having presented the denouncements to the government of the State, it would have been impossible to have obtained the title-deeds of possession, which I delivered when I made the sale to the company; and if the denouncements are not to be found in the archives, I do not know where they are to be found.

6th. State when you were residing at San Dimas and at Tayol-tita, and whether during this time your property and person was duly protected by the Mexican authorities in that district?

Ans. I resided at the minerales of San Dimas, and Tayoltita, from the year 1846 up to 1865, and that in the year 1856 the town of San Dimas mutinied against me, murdered my brother, left me, the deponent, for dead, pillaged my house, and the authorities were unable to prevent it.

7th. State whether your brother was killed, and you yourself dangerously wounded at San Dimas by the same Mexicans who killed your brother, all by want of due protection from the authorities?

Ans. My reply to the previous question is an answer to this one.

8th. State whether the Republican Government of Mexico arranged with you, and agreed to pay you for the damages which you suffered at the hands of the said Mexicans at San Dimas, by reason of the want of protection; and if so, state what amount the Mexican Government agreed to pay you for such damage?

Ans. The Mexican Government agreed to pay the loss and damage sustained by the deponent, but no amount was fixed upon for the damages referred to in the question.

9th. State whether, at the time of the death of your brother and you yourself were wounded, you were working the mines which you sold to La Abra Silver Mining Company, or David J. Garth and Thomas J. Bartholow for the said company; and if so, state whether the principal inducement you had for selling the mines and leaving the district was the want of protection to your person and property by the Mexican authorities at that place?

Ans. That at the time of the occurrence referred to, I was working some of the mines sold by me to Thomas J. Bartholow for La Abra Company, and others I subsequently acquired. In fact, one of the principal reasons which induced me to sell was the want of protection experienced in those sparsely populated places, and which are distant from the superior authorities of the State.

10th. State whether the foreigners engaged in mining in the district of San Dimas have experienced the protection promised by President Juarez, in his proclamation in which he invites the investment of foreign capital?

Ans. That he does not know what promises President Juarez may have made to foreigners, in the proclamation referred to in the question, and as deponent left San Dimas in 1865, when he sold the mines, he does not know what protection may have been given to them.

11th. State whether you have heard it publicly reported that Marcos Mora, who was gefe politico at San Dimas, in 1866 or 1867, was strongly prejudiced against "La Abra Silver Mining Company," and "Guadalupe Silver Mining Company," and endeavored to drive them out of the country, and whether Macario Olvera, who was gefe politico in the same district, in 1864, was of the same way of thinking?

Ans. He answers this question in the affirmative, as far as relates to Marcos Mora. as he knows that he was very badly disposed towards the company in question, that he even went so far as to say to the deponent that it was necessary to break these companies up, and drive them away from there; that with regard to Macario Olvera, he knows nothing.

12th. State whether you know William H. Smith, the owner, and the party who worked a mine at Tayoltita, called the "Tocolote;" and if you knew him, state whether you commissioned him to sell the mines which you afterwards sold to Messrs. Garth and Bartholow, and which subsequently became the property of the said Abra Company?

88 Ans. I was perfectly well acquainted with William H. Smith, the owner of the "Tocolote" mine at Tayoltita; I gave him the commission referred to in the question, all of which I answer in the affirmative.

13th. State at what price you limited the sale of the said mines, in the commission given to the said Smith, and whether it is true that the said Smith was instructed by you not to sell the mines for less than one hundred and fifty thousand dollars?

Ans. In fact, the instructions given to Mr. Smith, for the sale of the mines, fixed the price of them at more than one hundred thousand dollars, but I do not recollect whether the price fixed was exactly one hundred and fifty thousand dollars.

14th. State whether you consider that you sold the said mines to Messrs. Garth and Bartholow at a very low price, in view of their real value, the price of sale having been fifty thousand dollars?

Ans. That in fact the mines referred to in the question were sold to La Abra Company at an exceedingly low price.

15th. State whether it is true that you were induced to sell the said mines at this low price principally because you thought that your life and property were not safe in the district of San Dimas, because the local authorities did not give you, and other foreigners, due protection, on account of the depredations committed by the military authorities of the Republic, who with armed forces passed through Tayoltita and San Dimas, during the war against the Maximilian empire?

Ans. That in fact he was induced to sell the mines in question for the reason stated in the question.

16th. State whether you consider the said William H. Smith, of the Tecolote mine, at Tayoltita, to be an honest and an honorable man?

Ans. I consider William H. Smith to be an honest and an honorable man.

17th. State if it be true that the said mines, belonging to La Abra Company, were previously worked with great success by the celebrated Zambrano; and if said mines are mentioned by Baron Von Humboldt, and also in Ward's celebrated work on Mexico; and whether it is publicly well known that the old reducing works and aqueducts there were constructed by the same Zambrano?

Ans. In the affirmative.

Question by the Court:

Have you any interest in this matter, or in the claim made by La Abra Silver Mining Company against Mexico; or are you the attorney, relative, or friend of any of the claimants?

Ans. I have no interest whatever, nor is there any legal impediment to my deposition.

With which the present deposition was closed, and the witness confirmed and ratified it, signing with the judge and attending witnesses.

(Signed)

PADRO J. BARAZA.

JUAN CASTILLO DE VALLE.

FERMAN MONREAL.
JESUS GOMEZ.

(Signed)

89

DURANGO, June 27, 1872.

To the First Judge of Letters to the Department of this Capitol:

A. W. Adams, a citizen of the United States, at present residing in this capital, as attorney-in-fact of La Abra Silver Mining Company, as I have accredited before you, respectfully requests you to certify, whether Juan Castillo de Valle is one of the principal merchants in this city; whether he is publicly known to be an honorable man, and whether his testimony is worthy of credence, as I require such a certificate as to the value of Mr. Juan Castillo de Valle's deposition, given before you.

I beg you to accede to my petition, which is just.

(Signed)

A. W. ADAMS.

DURANGO, June 27th, 1872.

[Here follows an order of court, directing the certificate asked for in the foregoing petition, to be given, and the original to be delivered to the petitioner.

(Signature)

W. C. T., *Official Translator.*]

[Here follows an entry of the notification of the foregoing order to A. W. Adams.

W. C. T., *Official Translator.*]

I, lawyer Pedro J. Barraza, first judge of letters, of the department of this capitol, under legal protest, and in due form of law, do hereby certify, that Mr. Juan Castillo de Valle is one of the principal merchants in this city; that he is a man well known for his honor and integrity, and that his testimony is, beyond doubt, worthy of credence.

And at the request of A. W. Adams, a citizen of the United States, I issue the present certificate at the foot of his petition, on two leaves of paper, bearing the third seal, and for the uses and purposes stated in the said petition.

Signed, on this, the 27th day of June, 1872, at the city of Durango.

(Signed,)

PEDRO J. BARRAZA.

We, the undersigned, notaries public, do hereby certify, that the signature affixed to the foregoing deposition, dated the 27th day of June, 1872, is that of Juan Castillo de Valle, a Spanish subject, a merchant and resident of this place, whom we certify to knowing as a person of good character and repute, and that the signature which witnesses the said deposition, is that of lawyer Pedro J. Barraza, the judge of the first criminal court, and in the exercise of civil jurisdiction; and we further certify, that the signature to the foregoing certificate is also that of Judge Pedro J. Barraza.

In witness whereof, and at the request of A. W. Adams, a citizen of the United States, we give the present certificate at the city of Durango, on the 26th day of July, 1872.

(Signed,)

JESUS CINCUNEGUI, *Not. Public.*

[*Rubrica.*]

FELIPE VILLAREAL, *Not. Public.*

[*Rubrica.*]

I, General Florentino Carrillo, governor and military commandant of the State of Durango, do hereby certify, that the signatures affixed to the foregoing document,

are those of lawyer Pedro J. Barraza, first criminal judge, and acting as civil judge, and of Jesus Cincunegui, and Felipe Villareal, notaries public, and that the signatures of the same are acknowledged, and entitled to full faith and credit.

And at the request of the party interested, I give the present, at Durango, on 26th July, 1872.

(Signed,)
 JOSE PALAS, *Chief Clerk.*

F. CARRILLO

[Here follows, in the original, the certificates of the United States consul at Mazatlan, to the signatures of the governor and chief clerk.

W. C. T., *Off. Translator.*]

Deposition of Jesus Chavarria.

DURANGO, July 11, 1872.

To the First Criminal Judge acting in civil proceedings :

A. W. Adams, as the legal representative of the "Abra Silver Mining Company," appears before you, according to law, and respectfully sets forth, that the rights of the parties represented by him require him to request you to summon, and cause to appear before you, Lawyer Jesus Chavarria, and that he give his deposition in accordance with the annexed interrogatories, and that upon the conclusion thereof according to law, he further requests that you will direct that the original be delivered to him for the lawful uses for which it may serve the parties represented by him.

A. W. ADAMS.

DURANGO, July 11, 1872.

[Here follows, in the originals, an order of court, directing the deposition to be taken, and Lawyer Jesus Chavarria to be cited to appear at 9 o'clock to-morrow morning, 12th of July, 1872.

(Signed)

PEDRO J. BARRAZA, *Judge.*

^a
FERMIN MINREAL.

(Signed)

^a
JESUS GOMEZ.]

[Here follows the entry of the notification of the above to A. W. Adams, a citizen of the United States.

[NOTE.—To facilitate the reading of the testimony, and owing to the length of the interrogatories, which, as usual, are separate from the answers, the answers have been inserted immediately after the questions.

W. C. T., *Official Translator.*]

Interrogatories for the examination of Jesus Chavarria.

1st. State your generalities :

Ans. That his name is, as before stated ; of age ; married ; a lawyer ; a resident of this place ; and without any further generalities.

2d. State where you resided, and what was your employment, from July, 1865, to March, 1868 ?

Ans. That now, as during the years referred to in the question, his residence was in Durango ; that he was employed in business connected with his profession, and herecollects that he was absent at the department of San Dimas and the Tayoltita mines, on private business, in the month of July, or August, 1867.

3d. State whether you knew the company called "The Abra Silver Mining Company," the claimant in this case, or any of the stockholders or employees, and if you knew any of them, state when and where you knew them ; who they were, and how they were engaged, if you know ?

Ans. That he knew the "Abra Company," referred to in the question, at the time that he was at San Dimas ; that he knew some of the members, such as Charles Exall, at the time stated in the previous question, that is, in July or August of 1867, and that they disappeared from the district in the following year.

4th. State whether you ever visited the Abra Silver Mining Company's mines, reducing works, improvements, and other works ; what these mines were, and of what the works, buildings, and improvements of the company consisted ; also state, where and how they were situated when you saw them, and give a description of the mines as to their value, and the extraction of ores ?

Ans. That in his previous reply he has answered the first part of this question; that the mines were the "Abra," the "Luz," the "Rosario," and others which he does not recollect; that the works consisted of the houses, reducing works, and other edifices adapted to the business; that the mines were of silver, and of great importance for the abundance of their ores and their percentage of silver; that it is impossible for him to give a description of them, as he is not an expert in mining.

5th. State whether you knew Marcos Mora, and if you knew him, what was his political employment from the end of 1866 up to about September of 1867, and who was he?

Ans. That he knew Marcos Mora, as gefe politico of San Dimas, from March of 1867 up to September of the same year.

6th. State under what party and government, both national and State, the said Marcos Mora was acting as gefe politico; also, who succeeded the said Mora in that office, when his successor was appointed, and where did he live when he was appointed?

Ans. That Marcos Mora was acting in that office under the present Federal Government of President Juarez, which was in force, both in the State and nation; that Marcos Mora was succeeded by Macario Olvera, who resided at Gavilanes when he was appointed.

7th. State at what time you were at the Abra Silver Mining Company's mines and reducing works at Tayoltita, and who, if anybody, was with you?

Ans. That he has stated the time when he was at the mines, at Tayoltita, and that Marcos Mora, and the deponent's servants went with him when he went to see them.

8th. State whether it is true that the said gefe politico, Marcos Mora, was arrested for crime, and tried in this capital, about the month of September, 1867; state what lawyer defended Mora, what offense he was accused of; also state, whether Mora the gefe politico was duly tried by the authorities, evidence upon this subject being considered pertinent and important on the point, as will be seen afterwards?

Ans. That it is a fact, that Mora was tried for misconduct in office; that he was imprisoned and tried in this city, before the second criminal judge; that 92 Mora was further accused of malversation of the public funds, and that deponent was the lawyer who defended said Mora.

9th. State for what purpose you went to San Dimas, or Tayoltita, in July or August of 1867; state all that took place there, the conversations which occurred between the gefe politico, Marcos Mora, and deponent, with regard to the object of his visit to the district at that time concerning the property and damages of La Abra Silver Mining Company; state also what took place between the said gefe politico and deponent, while going to and returning from that place, also what took place between the said gefe politico and the Mexican miners when you visited the mines; houses, &c., &c., at Tayoltita, touching the property or damages of the said company; state all that you witnessed there, relating to this question, and whether the gefe politico's protection was invoked on behalf of the company; whether protection was not given, and state whatever else you may know with regard to this question, whether it was indicative of a conspiracy on the part of the Mexican authorities, general or local, civil or military, to drive the Abra Silver Mining Company away from their mines and property at Tayoltita?

Ans. That in July or August, of 1867, the year referred to in the question, he was at San Dimas on private business, and also at Tayoltita, as he has before said; that he went to the mines for the purpose of seeing them, and that he conversed with the gefe politico upon their condition; that in consequence of these he became satisfied that both that officer and the mining people were strongly bent upon annoying and driving the Abra Company away, and with which they were continually provoking quarrels; that officer and some of the workmen stated that they believed the company to be annexionists; that it was therefore hateful to Mexico, and they thought it best to drive it way from that mineral, anyhow; that, for this purpose, the authorities instigated the laboring people, on the pretext of their wants, not to work for the company; that he further knew, that the company's ores were frequently stolen, and that it was not legally protected by the Gefeatura, where the superintendent usually made fruitless complaints of the thefts; that that officer [the gefe] also gave him, deponent, to understand that he had a special interest in the expulsion and despoliation of the company, in which case he intended to denounce the mines at Tayoltita, and he offered deponent a share in them, which deponent refused, and reproved his conduct in permitting the operatives to steal the ores, which they did with impunity, to the great responsibility of the authorities of that department, who, either by their connivance, or indolence, compromised the honor and good name of the Republic.

10th. State whether deponent met Macario Olvera on the road, on his return from Tayoltita to Durango, in July or August of 1867; also state what conversation he had with Olvera concerning the prefect, Marcos Mora, the gefe politico, as to expelling the Abra Silver Mining Company from their mines and works at Tayoltita?

Ans. That he met Macario Olvera on the road, from San Dimas to Gavilanes; that they conversed together upon the subject referred to in the question, and Olvera acknowledged to him the plans and intentions existing at Tayoltita, on the part of the authorities and the operatives, to injure and expel the Abra Company from their mines by intrigues, or such direct and indirect means as it would be impossible for them to resist, and that Olvera revealed to deponent that he was interested in that hostility, and in combination with the gefe politico, whom he was going to replace, to carry out the sinister projects before referred to.

11th. State whether Marcos Mora, the gefe politico, was visited on the second night of their stay at Tayoltita, in July or August of 1867, at the house where they were stopping, by any of the employees of the Abra Company, or any of the head Mexican workmen who had been in the employ of the company? Also, state all that then and there took place between the said employees and the gefe, Mora, as to their continuing in the company's service; state what the parties named did, and said, in your presence.

Ans. That all the matters referred to in the question are true; that the greatest disorder prevailed upon that occasion; that the head miners, by order of Marcos Mora, mutined against the Abra Company and the superintendent; they refused to work any longer in the mines, which resulted in the continuance and increase of the robbery of the ores, which was openly carried on, in daylight, and in the presence of the superintendent.

12th. State whether, at Durango, or other places, you have had any conversations with the said gefe politico, Marcos Mora, or his successor, Macario Olvera, since the month of March, 1868, touching the reasons why the Abra Silver Mining Company abandoned their mines and property; and if so, then state all that the said gefes politico told you, and others in your presence, prior and subsequent to the abandonment of the mines, which may throw any light on the subject of the abandonment, and the manner in which this was brought about?

Ans. That subsequent to the time referred to in the question, he conversed with Macario Olvera, in Durango, and also with Marcos Mora, on his frequent visits to him when he was in prison and was told, that the company had finally been compelled to abandon their mines at Tayoltita, through the loss of their property, owing to the concerted hostility against it in March of 1868.

13th. State what was the value of the improvements made by the Abra Silver Mining Company at the time you visited their mines and works, in July or August of 1867? Also the value of the silver ores, which you saw in the company's enclosures, near their principal reducing works of San Nicolas; also state your opinion regarding the amount of money which the company may have expended in the improvement and development of the mines, taking as a base for such opinion what you saw when you visited the said mines and works, and the best information you could obtain from persons living on the spot? Also state the value of the company's mines, if you have sufficient experience in mining to enable you to form a correct opinion, or one satisfactory to yourself; also state what was said to be the value of the mines and property by experienced and practical miners at Tayoltita, and by Marcos Mora, the gefe politico, in July or August, 1867, on this subject?

Ans. That, although he has not the necessary knowledge to enable him to make an exact estimate of the value of the property referred to in the question, still, referring to the statements of persons well informed on the subject, who, while he was at Tayoltita, showed him the constructions which had been made by Juan Zambrano, the first owner of the mines, at great cost, the improvement made by the Abra Company, the ores, and the mines themselves, it does not appear to him an exaggeration to state that the value of the buildings and improvements was one hundred and fifty thousand dollars; the value of the ores two hundred thousand dollars, and the company's expenditures there one hundred thousand dollars. From all that he saw he was convinced of the immense amount of money which had been expended, and that its value, including the mines, was four or five millions.

14th. State whether it is true that Macario Olvera, the successor of Mora as gefe politico, was killed in a disgraceful emute in the streets of the town of San Dimas, the head town of the district of the same name, in the summer of 1870? If so, state the origin of the quarrel which led to the death or assassination of Olvera, the question being pertinent?

Ans. That the matter referred to in this question is true, and that it is further publicly well known that the cause which led to Olvera's death was a riot among the miners, on account of their antipathy against that gefe politico, because he was not a resident of that department.

15th. State whether the protection of the National and State authorities was duly and legally invoked on behalf of the Abra Silver Mining Company, at the end of 1867, to protect it against the unlawful attempts made against it and the robbery of its property by Mexicans at the instigation of the gefe politico of the district and

the local authorities at Tayoltita? If this be so, then state how you learned the facts? Who was employed by the company as its agent, to represent the facts to the authorities? Who was employed and acted as the company's attorney at the time the said protection was invoked? State what was told him, and what was done in his presence by the National and State authorities when the said protection was asked for, and in reply to his petition?

Ans. That the matter stated in this question is true in all its parts; that deponent, employed by Mr. Rice, of California, as Exall's lawyer, repeatedly solicited, from the State Government, protection for the Abra Company, to suppress the robberies and outrages which the company were experiencing at Tayoltita, but all to no purpose, as, after innumerable steps and measures, the Executive of the State never even so much as requested the authorities at San Dimas to comply with their duties. The only answer given was, that the government of the State, at whose head was Francisco Ortiz de Zarate, in 1867, would not meddle in private matters.

16th. State whether it is publicly well known to the authorities and the people of this city and other parts of the State that the Abra Silver Mining Company was compelled to abandon their mines and mining operations at Tayoltita in the month of March, 1868, by reason of the acts of the national and local authorities of Mexico? State, also, if the Executive of the State had the power to prevent such acts, and whether he refused to exert such power for the purpose?

Ans. That the matter contained in the question is true, and which he knows, because it was publicly well known that the Abra Company abandoned their mines at Tayoltita in March of 1868; that he also knows that the Executive of the State had the military and civil power requisite to have prevented and protected that company from being violently expelled; the deponent is unable to explain the reasons why this protection was withheld.

17th. State whether you know, or ever heard it said, that the company, or any of its American employees, were ever guilty of any illegal acts, or of disobedience to the laws, during the time that they were working the said mines, or during their residence in Mexico? State whether you know of any valid reason, or excuse, why the
95 due and lawful protection was denied by the Mexican authorities, such protection, you say, having been duly invoked by the company?

Ans. That he knows of no unlawful act having been committed by, or imputed to the company, or any of its American employees, during the time of their residence in Mexico; on the contrary, he knows that their conduct, both in private and public, was good, and consequently he does not know by what lawful reason the Mexican authorities withheld from them the protection to which they were entitled.

18th. State whether Marcos Mora was poor when he became gefe politico of San Dimas, in February, or March, of 1867, and what was his pecuniary condition when he returned to this capital, a prisoner, in September of the same year; what was his lawful pay or salary as gefe politico?

Ans. That Marcos Mora was poor before he became gefe politico at San Dimas, at the time referred to in the question, and he knows that shortly before he was committed to prison for the crime before referred to, that he opened a store, and, shortly after, a pawnbroker's shop.

19th. State whether it is true, or not, that in a conversation with Marcos Mora, the gefe politico, at Tayoltita, in July or August of 1867, that the gefe politico admitted to him that he had made money during the time he was acting as gefe politico, by dividing the profits on the ores stolen from the Abra Silver Mining Company, and which were reduced by the native miners at the small reducing works belonging to Mexicans in the vicinity of Tayoltita? State, also, whether the said Mora made any statements to this effect, or had the temerity to invite witnesses to participate in that unlawful undertaking?

Ans. That it is a fact, and that he has given an idea of it in his previous replies.

20th. State whether the gefe politico, Marcario Olvera, Marcos Mora's successor, made any admissions or boasts, in witness' presence or hearing, to the effect that he had made money out of the "gringos" by the sale of the ores belonging to the Abra Silver Mining Company, or from the sale of their tools, or pieces of their machinery, or any of the other implements belonging to the said company? State, also, what he heard said, by any credible persons, concerning the sale and destruction of the company's property at Tayoltita; also, what was the general reputation of the gefe politico, Olvera, and also that of Mora, as to their honesty in their official capacity, during the time they were acting as gefes politico in that district, in the years 1867, 1868, and 1869?

Ans. That the matter referred to in the question is true; that he was informed by credible parties at San Dimas that the said Olvera was engaged in the speculations, as stated in the question, and that neither his nor Mora's reputation was good in the years mentioned in the question.

21st. State whether you have heard cavalry officers of the National Republican

army, knowing them to be such, boast that, during the time that they were temporarily here, or passing through here on their way to the city of Mexico, that they had captured mule trains, loaded with provisions and supplies belonging to the "Abra Silver Mining Company," and that they had appropriated such provisions and supplies to the use of the army, and whether anything was said by these officers touching the death of the parties in charge of one of the trains of provisions and supplies, or other conversations, or admissions, with regard to the said depredations committed on the property of the said company. Also state whether you know that the

96 commanding officer here, at that time knew of these proceedings, or favored them at the time they were perpetrated?

Ans. That such a report was very current here; that he has heard several military officers so assert, and that, in his opinion, the government knew of the fact.

22d. State whether you have read the proclamations of Benito Juarez, the President of the Mexican Republic, duly and lawfully published during the years from 1855 to 1866, in which proclamations he invited foreign capitalists to come to Mexico to develop the mineral and agricultural resources of the country, and offering, in the same proclamations, on the part of the authorities, all due protection to life and property, exempting certain articles pertaining to these branches of industry from federal and state taxes; and if so, state how you understand the purpose and intention of the said proclamations, and whether the offers and promises contained in them have been carried out in good faith by the said authorities, either civil or military, with regard to the claimant's case, or have been applied to the Abra Silver Mining Company? Also state whether the offers and promises have been kept and carried out in good faith with regard to the protection and exemption contained in the proclamations, with respect to the other American mining and agricultural companies in the States of Durango and Sinaloa?

Ans. That he knows that the ideas of progress, and for the development of all the branches of the public wealth, which were entertained and always expressed by the republican government, in conformity with its treaty of the 4th of July, 1868, have, unfortunately, not been respected and carried out by the subordinate authorities, especially in the small towns, who failed to understand the high and salutary views of the federal government, which is the explanation of the unjustifiable abuses to which the Abra Company have been subjected.

23d. State what you have heard Marcus Mora, the jefe politico, and Olvera, his successor, state they would do, as authorities, in the event that the Abra Silver Mining Company should attempt to resume their mining operations at Tayoltita?

Ans. That he has heard Olvera give his opinions against the Abra Company; that he would make it impossible for them to work, and that he would injure the members of the company if they returned.

24th. State whether you are the attorney of the Abra Silver Mining Company, or have any interest, direct or contingent, or of any other kind, in the claim made by the said company for the losses and damages sustained by reason of the acts of the Mexican authorities, and in support of which the present deposition has been given?

Ans. That he has absolutely no interest, direct or indirect, in this claim, or in any other claim which the Abra Company have made for losses and damages in support of which he has justly given his deposition, and signed it in good faith, without intending to offend the legitimate authorities of his country; with which the present deposition was concluded, signing with the judge and attesting witnesses.

(Signed)

PEDRO J. BARAZA.

(Signed)

FERMIN MONREAL.

(Signed)

J. CHAVARRIA.

(Signed)

JESUS GOMEZ.

97

DURANGO, July 12, 1872.

[Here follows an order of court, stating that the present deposition, having been concluded, directs it to be delivered to the party interested.]

(Signed)

PADRO J. BARAZA, Judge.

DURANGO, July 16, 1872.

A. W. Adams, the legal representative of the Abra Silver Mining Company, as has been duly shown, respectfully set forth, that the rights of the party represented by me, require that it be shown what credit in law the deposition of lawyer Jesus Chavarria, taken before you on the 12th instant, is entitled to, wherefore I have to request you to certify, at the foot of this petition, in due form, what kind of a person

the said lawyer Jesus Chavarria is, and whether his deposition is entitled to full faith and credit, directing the certificate to be delivered to me, for the uses for which it may serve.

(Signed)

A. W. ADAMS.

DURANGO, July 18, 1872.

[Here follows an order of the court, directing the certificate to be granted.]

(Signed)

BARRAZA, *Judge*.

[Here follows the certificate of the court, stating that lawyer Jesus Chavarria is a resident of this city, (Durango,) one of its first lawyers, and by his dignity and well-known integrity, that his deposition is, beyond all doubt, entitled to full faith and credit.

(Signed)

PEDRO J. BAZZARA, *Judge*.
W. C. T., *Off. Translator*.]

[Here follows the certificate of notaries public, Felipe Villareal, Jesus M. Zatarain, and Jesus Cincunegui, that the signatures to the foregoing deposition of lawyer Jesus Chavarria, and Judge Pedro J. Barraza, are true and genuine signatures.

(Signed)

JESUS M. ZATARAIN,
(*Rubrica*.)

(Signed)

FELIPE VILLAREAL,
(*Rubrica*.)

(Signed)

JESUS CINCUNEGUIA,
(*Rubrica*.)
W. C. T., *Off. Translator*.]

I, General Florentine Carrillo, governor and military commandant of the State of Durango, hereby certify, that the signatures which are attached to the foregoing document, of the first criminal judge, Pedro J. Barraza, and of the notaries public, Jesus Cincunegui, Jesus Ma. Zatarain, and Villareal, are the true and genuine signatures of the said individuals.

And at the request of the party interested, I give the present at Durango, on the 25th of July, 1872.

(Signed,)
(Signed,)

F. CARRILLO.
JOSE PALAO, *Secretary*.

[Here follows certificate of United States consul at Mazatlan, dated August 17, 1872, to the signature of the governor and his secretary.

(Signed)
[U. S. consular seal.]

ISAAC SISSON, *U. S. Consul*.
W. C. T., *Off'l Translator*.]

Deposition of Marcos Mora.

DURANGO, July 18th, 1872.

To the First Criminal judge acting in matters of civil jurisdiction :

A. W. Adams, on behalf of "La Abra Silver Mining Company," appears before you according to law, and sets forth, that the rights of the party represented by him, require him to request you to cause to appear before you Marcos Mora, and to take his deposition in accordance with the annexed interrogatory, and that upon the conclusion thereof, that you will direct it to be delivered to me for such uses as the party represented by me may esteem proper and lawful. My petition is just.

(Signed,)

A. W. ADAMS.

DURANGO, July 18th, 1872.

[Here follows an order of court directing the deposition to be taken, and Marcos Mora to be cited to appear before the court, to-morrow, 19th of July, 1872, at 11 o'clock

in the morning, and that upon its conclusion the deposition to be delivered to the petitioner.

(Signed)

BARRAZA, *Judge.*

(Signed)

^a
FERMIN MONREAL.

(Signed)

^a
JESUS GOMEZ.
W. C. T., *Official Translator.*]

[Here follows the entry of the notification of the above order, to the United States citizen, A. W. Adams.

Signature.]

[Here follows an entry that the summons was issued and served.

(Signed)

BARRAZA.
W. C. T., O. T.]

[NOTE.—Owing to the length of the interrogatory, and for the purpose of facilitating the reading of the testimony, the answers are inserted after the questions, although as is the custom they are separate in the original.

W. C. T., *Official Translator.*

Interrogatory for the examination of Marcos Mora.

1st. State your name and generalities.

Ans. My name is as before stated; of age; unmarried; a merchant and resident of this place; without other generalities.

2d. Where did you reside from the month of March, 1867, up to the beginning of September of the same year?

Ans. That he resided at San Dimas, as gefe politico.

3d. Is it true that you were gefe politico at San Dimas during the time stated in the previous question, with military power? State also the powers, duty, and pay attached to the gefatura of that department.

Ans. That as he has already stated, he was gefe politico of that department of San Dimas, at the time referred to in the question; that he had no military powers, and no other powers except those granted by law to gefes politico; that his salary, by law, was one thousand dollars per annum.

4th. Did you know the mines belonging to the Abra Silver Mining Company, and where they were situated?

Ans. That he knew the mines referred to in the question, and they were situated in the mineral of Tayoltita.

99 5th. What was the name of each one of the mines, haciendas, and works belonging to the said company, and what were the names of the superintendents and other subordinate employees of the same?

Ans. That one of the mines was called "Talpa," others the "Rosario," the "Luz," "Aragan," and others which he does not recollect; that the hacienda was called "San Nicolas;" the superintendent's name was Charles Exall; he does not recollect the names of the other employees.

6th. Who was your successor as gefe politico of the district of San Dimas, and where did he reside when he was appointed?

Ans. That his successor was Macario Olvera, and that he resided at Canatlan when he was appointed.

7th. Were you personally, or by reputation, acquainted with the employees of the Abra company during the time that they were working their mines at Tayoltita? Did you know, directly or indirectly, or witness any act of disobedience on the part of said employees, or the company in general, to any of the laws or to the authorities, during the time they were residing there?

Ans. That he knew, as he has stated, the employees of the Abra Mining Company, and the deponent never knew of their having been guilty of any act of disobedience to the laws, or of the legitimate authorities.

8th. In what year and month did Macario Olvera enter upon his duties as gefe politico?

Ans. That Macario Olvera entered upon the duties of his office at the beginning of September, 1867.

9th. What was his name, and where did the party live who acted as gefe politico in the interval between the time when the deponent left and Olvera entered upon his duties?

Ans. That his name was Arcadia Laveaga; that he lived, and still lives at San Dimas.

10th. What was the name of the gefe politico whom you succeeded ?

Ans. That his name was Ygnacio Quiros.

11th. Were you intimately acquainted with the two persons whom you have stated were gefes politico, prior, and subsequent to the time you were gefe, and did you know their opinion of the company, and the other Americans residing in that department, and how they expressed themselves with regard to the laws promulgated by President Juarez, wherein he invited foreigners to work the mines in Mexico; and what did they say with regard to their duties to protect those foreigners ?

Ans. That although he did not know the persons referred to in the question, previous to becoming gefe politico, he afterward became perfectly acquainted with them, and knows that they were unfriendly to the company, "La Abra," and toward the other Americans residing in the department; that neither of them were satisfied with the laws given by President Juarez inviting foreigners to come to the country, and although those persons might have obeyed them, it was against their own wishes; that they not only showed their unwillingness to do so, but in various ways tried to molest them and force them to leave the place.

12th. Who is at present gefe politico, and who is judge of first instance in that department ? Are they Arcadio Laveaga and Ygnacio Quiros ?

Ans. That Arcadio Laveaga is gefe politico, and Quiros judge of first instance.

100 13th. Say whether or not Messrs. Laveaga and Quiros, during the time you were gefe politico, and in your presence, and that of other persons, expressed themselves against the Abra Company, as though they were resolved and decided, at all hazards, to drive them out of Mexico ? and state whether this feeling and intention was or not the common and general one there during the time you were gefe politico ?

Ans. That his reply to the eleventh question will answer this one; and the general and common feeling in that town was adverse to the Americans.

14th. Whether the local authorities at San Dimas, in general, expressed themselves in favor of the forcible expulsion of the Abra Company, and the other American companies from that district, and from the Mexican Republic; whether they worked without any concealment to attain their purpose during the years 1867 and 1868; and whether he knows the reason why they entertained and maintained these feeling for their expulsion ?

Ans. That he thinks that this question is answered in his previous replies, although the deponent cannot affirm that the local authorities at San Dimas expressed themselves against the other American Companies who resided outside of that district, nor that they sought for the expulsion of any other except the Abra Company; and they gave as their reason for this that the Americans who went to that district wanted to take their mines and lands.

15th. Whether he ever knew, or heard it truthfully asserted, that any of the employees of the "Abra Company" had worked for, or tried to work for, the annexation of the States of Durango or Sinaloa, or any other State of Mexico to the United States; and if so, state the name and residence of the person who gave him the information ?

Ans. That he never heard anything said upon the subject referred to in this question.

16th. Whether he knew Nicanor Perez, and Guadalupe Soto, authorities at Tayoltita; whether he knew the marked feelings and intentions which they entertained concerning the Abra company, and whether these were favorable to or adverse to the company ?

Ans. That he knew the persons referred to in the question; that they were authorities at Tayoltita in 1867, and their feelings were adverse to and unfavorable to the work of the Abra Company.

17th. Whether he recollects what occurred, with regard to the imprisonment of Charles H. Exall, the general superintendent of the Abra Mining Company, in 1867, by Nicanor Perez, who was at that time the local judge at Tayoltita; whether the said Exall broke any law which would justify the local judge in imprisoning him; and that he state all he may know upon the subject ?

Ans. That the judge, Nicanor Perez, told him, at the time, that he had imprisoned Superintendent Charles Exall, because he had personally insulted him; and that in revenge, he had fined and imprisoned him. The deponent knows nothing further about the matter, or whether the judge had any legal cause to imprison Exall, or whether he had infringed any law.

17th. Whether he knows lawyer Jesus Chavarria, of this place; whether he knew him at the time deponent was gefe politico of the aforesaid department, in 1867; whether he enjoys a high reputation as a lawyer; and whether he is considered in Durango as a respectable and truthful person ?

101 Ans. That he is perfectly well acquainted with Lawyer Jesus Chavarria, and was so at the time referred to in the question; that he enjoys a high reputation in his profession, and is considered as a truthful and respectable person.

19th. Whether during the time of his administration as jefe politico he saw Lawyer Chavarria at the district of San Dimas? State how many times, and at what place.

Ans. That he saw Lawyer Chavarria in the month of July, 1867, at Tayoltita, in the district of San Dimas, once, although it appears to him that he saw him on another occasion, but he is not sure of it.

20th. How far is it from San Dimas to Tayoltita, or from San Dimas to the company's reducing works of "San Nicolas."

Ans. That it is about five leagues.

21st. Whether it is true that Lawyer Chavarria accompanied the deponent from San Dimas to Tayoltita, and to the company's reducing works, mines, and other works, in July or August of 1867?

Answers in the affirmative.

22d. Whether they both examined the mines and reducing works, and whether Mr. Chavarria examined them at his request?

Answers in the affirmative.

23d. Whether they staid two days at Tayoltita on that occasion, and whether it was on the first or second day of their stay, that they visited the company's mines, and who went with them?

Ans. That in fact they staid two days at Tayoltita, and that their visit to the company's mines was on the second day of their stay, and they were accompanied by Mr. Chavarria's servants.

24th. State if you know, what was the value of the mines belonging to the Abra Company, in the vicinity of Tayoltita, in 1863, what is their present value, and how much it would cost to put them in a suitable condition to be again worked?

Ans. That having no knowledge concerning mining, it is impossible for him to state what was the value of the mines belonging to the Abra Company at the time referred to in the question, nor how much it would cost to put them in condition to be worked again, but they are unquestionably the best mines in the district of San Dimas.

25th. What improvements had the company made at the mines and reducing works, and what was the fair value of these improvements, or their cost?

Ans. That the company built several houses for the use of their employees, he does not recollect how many; they built a large house at their reducing works, and various other improvements, such as erecting a ten-stamp mill for grinding their ores. That the value of these, including the extraction of ores and their transportation to the reducing works, could not have been less than five hundred thousand dollars.

26th. In your opinion, and from the quantity of ores at the company's reducing works, how much did the company expend in the extraction of ores, and their transportation from the mines to the reducing works of San Nicolas, from the time that they commenced work up to the time that you were there, in July or August of 1867, and how much were the said ores worth?

Ans. That although he can not state how much the extraction of the ores which were at the company's reducing works may have cost, as this would vary with circumstances, he can affirm that the company, in July of 1867, had at the San Nicolas reducing works very nearly six thousand cargoes of ores.

27th. Whether it is true that during the time of his administration, the richest of the company's ores were stolen by Mexican operatives, and also whether it is true that the local judges would receive no complaint upon the subject?

Ans. That during the time of his administration he had no knowledge of the theft of the ores referred to in this question, but he did hear it stated that during Olvera's time, that the Mexican operatives, who were absolutely without work to maintain themselves, stole some of the company's ores, and that neither Quiros nor Olvera would listen to any complaints, made on account of the said robberies, by the company's superintendent.

28th. Whether it is true that during the time of the deponent's administration, in that district, a mutiny was excited by the two local judges, that the mutineers proceeded against the reducing works of San Nicolas, armed with pistols and machetes, and drove out the superintendent and other America employees from the place which according to law belonged to them?

Ans. That he is ignorant of the matter referred to in this question.

29th. Whether the deponent, by virtue of his powers as jefe publico did, directly or through Guadalupe Soto, the local judge, order the company to give work to all unemployed Mexicans in the district, or else turn the mines over to the operatives to work them on their own account; whether it is also true that the deponent then said "that he would not hold himself responsible for the consequences which might ensue?" If this is so, then state whether he meant, by the expression, that the people who were without work might drive the said company out of the place?

Ans. That the matter stated in this question is not true.

30th. That the deponent state all that he knows, or has heard, with regard to whether, in the month of October, 1867, the Abra Mining Company employed Mr. Joseph Rice, as attorney-in-fact, and Lawyer Jesus Chavarria, as attorney, to bring a complaint for the damages and persecution which the said company was experiencing, and to invoke, on behalf of the company, the protection of the general and State authorities of Durango, represented at that time by Governor General Francisco Ortiz de Zarate, of the regular army of the Republic, and whether the protection desired by the company was refused by the Government, after having taken you out of your prison to consult you about it, and because the American employees and the Abra Mining Company were suspected of being annexationists?

Ans. That Lawyer Chavarria informed him that the Abra Mining Company at the time referred to in the question, employed him and Mr. Rice, the former as lawyer, and the latter as attorney-in-fact of the company, to make a complaint to the governor, General Francisco Ortiz de Zarate, of the damages and persecution which the company were experiencing at San Dimas, and asking him for protection; that at the time, the governor sent for deponent, and questioned him with regard to the company; that the deponent informed him that it consisted of Americans, and, like all other foreigners, was working for the ruin of Mexico; he refused it the protection which it prayed for.

31st. Whether in July or August of 1867, while acting as jefe politico, he gave any orders to the head miner of the company in charge of the operatives, in the presence of Lawyer Chavarria and others, and if he did, state what those orders were, and whether he dismissed any of the employees or operatives from the company's service, and for what reason?

103 Ans. That he does not recollect having given any orders, in the presence of Mr. Chavarria, and that it is not true that he then dismissed any of the company's employees or operatives from their service.

32d. That he state, positively, whether he dismissed the company's chief miner, and all the rest of the operatives, in the presence of Mr. Chavarria, and others, when he visited the mines; and if he did, then state what his reasons for so doing were?

Ans. As he has stated in his previous reply, he does not *recollect* of having dismissed any of the operatives.

33d. Whether, together with Mr. Chavarria, he visited the Abra Mining Company's reducing works, San Nicolas, the machinery, and other improvements, on the second day of their stay at Tayoltita, in July or August of 1867; whether they also examined the quantity and quality of the ore at and in the vicinity of the reducing works; what was their object in making this examination, and whether he informed Mr. Chavarria of the views he entertained in doing so?

Answers. That he has already stated, in one of his previous replies, that in company with Mr. Chavarria he visited the Abra Mining Company's reducing works, machinery, and other improvements on the second day of their stay there, in July of 1867; that they did so from curiosity and for amusement; that he did not communicate his views to Mr. Chavarria, for he had none on the subject.

34th. Whether it is true that he sent word to the company, through Mr. Exall, the superintendent, to give work to all the unemployed Mexicans in the district of San Dimas, and that if he did not do so, he would imprison, not only him, but all the other Americans, break up the Abra Company, and give over the mines and improvements to the Mexicans to work for their own account; and whether it is true that he told the operatives almost the same thing the day before, when they visited the mines?

Ans. That the matter referred to in this question is wholly false.

35th. Whether it is true that, on the second night he was visited at the house where he and Mr. Chavarria were stopping, in Tayoltita, by the same miner he had spoken to at the mine, and by a large number of the operatives of the mines, whom he had seen the day before; and, if so, what orders did he give those operatives of the company? Whether it is true that he then ordered them to stop work, and told them that he would give them the mines to work for themselves, and that within a few days? If this is so, then state what reasons he had for so saying?

Ans. That as the previous one, it is wholly false.

36th. Whether it is true that he stated in the presence of the Mexican operatives, that the company and the American employees were annexationists; that they were "Gringos" who were meddling in the politics of the country with the view of influencing the annexation of the frontier States to the United States; if it is so, then state whether Mr. Chavarria and his servants were present, what answer his audience gave, whether it is true that they applauded, and promised to drive the company out of the country?

Ans. That the contents of this question are also false.

37th. Whether it is true that when the operatives applauded him, that he told Mr. Chavarria that he would drive the company out of the country before he got done with it, or something of the same import?

Ans. That is also false.

104 38th. Whether it is true that he made use of his influence to have Olvera appointed his successor as gefe politico, and whether, to attain it, he made use of several prominent persons in the State? Who was the person or persons who assisted him, and whether the deponent expended any money to secure Olvera's appointment? For what purpose or end did deponent desire that Olvera should be appointed his successor, and what did he inform Mr. Chavarria was his object in securing Olvera's appointment?

Ans. That it is wholly false that he influenced, or tried to influence the appointment of his successor in any manner.

39th. Under what National and State Government did you serve as gefe politico of the department of San Dimas?

Ans. That he acted as gefe politico under the provisional government of General Zarate, governor of the State, and under the Government of President Dn. Benito Juarez.

40th. Whether he informed Mr. Chavarria that he had had several interviews with Olvera before and after he was appointed gefe politico, proposing to him to denounce the company's mines in case they should abandon them, and offering Chavarria a part in them if would assist him as a lawyer, in the difficulties which he had in his matters in Durango?

Ans. That he never made any such statement to Mr. Chavarria as is mentioned in the question, and that he never made him any offer of any kind in connection with this subject.

41st. Whether it is true that he never liked the Abra Company, and that he hated and despised it, as he did every other American?

Ans. That the contents of the question are not true.

42d. Whether it is true that the said Macario Olvera, during the time that he was acting as gefe politico of the department of San Dimas, owned to him that the expulsion of the Abra Mining Company was due to his exertions as such authority, and whether Olvera boasted of having been the direct cause of the expulsion.

Ans. That Olvera never stated anything to deponent upon the subject referred to in the question; according to Chavarria, Olvera made such a statement to him, Chavarria.

43d. Whether he resigned as gefe politico, or was removed for cause in which Lawyer Chavarria defended him in this capital?

Ans. That he resigned.

44th. Whether he knows that the American mining company, called the Carmen, which was working at Caudelero, a short distance from San Dimas, was attacked before the Abra Company, and that subsequently the local authorities, among which was one Salazar, killed some of the American employees belonging to the company and drove it away?

Ans. That he knows of the matter referred to in this question, by report.

45th. Whether the deponent has any interest direct, indirect, or contingent, in the claim made by the Abra Mining Company against the Republic of Mexico, or is the attorney of it, or interested in the success of the claim?

Ans. That he has no interest of any kind in this matter.

Additional question. State what was the date of your appointment as gefe politico of the district of San Dimas, and also the date of your resignation, or removal from office; who signed the corresponding communications; also, will you please produce them to have copies of them made, stating the date of the receipt of your commission and resignation?

105 Ans. That he was appointed by the Governor, General Francisco Ortiz de Zarate, on the 1st of March, 1867, and that his resignation was accepted in July of the same year; that the first document referred to is signed by Governor Zarate, and his secretary, and the latter one, by the latter only; that he has no objection to produce the communications for the judge to take copies of them, if it is desired, with which the present deposition was closed, and which, having been read to him, he confirms and ratifies it, signing with the judge and attesting witnesses.

(Signed,) PEDRO J. BARRAZA.

(Signed,) M. MORA.

(Signed,) FERMIN MONREAL.

(Signed,) JESUS GOMEZ.

DURANGO, July 23d, 1872.

[Here follows an order of court directing the documents referred to by M. Mora, in his last answer, to be copied into these proceedings, the copies to be certified to, and the originals thereafter to be returned to Mora.]

(Signed.)

PEDRO J. BARRAZA, Judge.

[Attesting witnesses' signatures.]

[Here follows an entry that the copies were made in accordance with the foregoing order, and the originals returned.]

(Signed.)

PEDRO J. BARRAZA, Judge.

[Witnesses' signatures.]

We, the undersigned, notaries public, hereby certify, that the foregoing signature of M. Mora, affixed to the deposition, taken on the 23d of the present month, is the true and genuine signature of the said Mora, who was the jefe politico of the department of San Dimas, in the State of Durango, at the time therein stated; we also further certify that the signature which witnesses the said deposition is that of Pedro J. Barraza, judge of the first criminal court, now presiding in civil matters.

In witness whereof, we give the present in the city of Durango, on the 25th of July, 1872.

(Signed,)

JESUS CINCUNEGUI, *Notary Public.*

[*Rubrica.*]

(Signed,)

FELIPE VILLARREAL, *Notary Public.*

[*Rubrica.*]

I, General Florentino Carrillo, Governor and military commandant of the State of Durango, hereby certify that the signatures with which the foregoing documents are witnessed, are those of Lawyer Pedro J. Barraza, judge of the first criminal court, now presiding in civil matters, and of Jesus Cincunegui and Felipe Villarreal, notaries public, and that they are genuine, and entitled to full faith and credit.

Given at the request of the party interested, at Durango, on the 27th of July, 1872.

(Signed,)

F. CARILLO

(Signed,) JOSE PALAO, *Secretary.*

[Here follows certificate of Isaac Sisson, the United States consul at Masatlan, dated August 17, 1872, to the signature of the Governor and his secretary.]

[SEAL OF THE U. S. CONSULATE.]

(Signed)

ISAAC SISSON,
United States Consul.

106 [Here follows copy of the commission of Marcos Mora, as jefe politico of the district of San Dimas, in the State of Durango; the instrument bears date Durango, March 1, 1867, and is signed by Francisco Ortiz de Zarate, Governor, and J. Hernandez y Marin, secretary.]

[Here follows copy of the acceptance of Marcos Mora's resignation as jefe politico of San Dimas; it is dated Durango, July 0, 1867, and directs him to turn the office over to the municipal president.]

[Here follows an entry by the court, stating that Marcos Mora, having failed to appear on the two subpoenas sent to him, it was necessary to compel his appearance by means of the police.]

(Signed,)

BARRAZA, *Judge.*

W. C. T., *Official Translator.*

DURANGO, July 23d, 1872.

To the Judge of the First Criminal Court, acting in civil matters:

A. W. Adams, a citizen of the United States, at present in this city, attorney-in-fact of the Abra Silver Mining Company, as has been duly shown, appears before you, and respectfully requests you to certify that Marcos Mora, who has given a deposition before the court presided over by you, on the 23d instant, is the same person who was jefe politico at San Dimas, in 1867.

(Signed,)

A. W. ADAMS.

[Here follows an order of court directing the certificate to be given.]

[Here follows a certificate of Judge Pedro J. Barraza, of the first criminal court, that Marcos Mora, to whom the communications were addressed, copies of which have been made part of the present proceedings, was jefe politico of the department of San Dimas, in the year 1867.]

(Signed,)

PEDRO J. BARRAZA, *Judge.*

W. C. T., *Official Translator.*

Doc. No. 52.

Certificate of the First Criminal Judge, (acting in civil matters,) of the city of Durango, Mexico.

DURANGO, July 22, 1872.

To the First Judge of Letters, of the Department of this Capital:

A. W. Adams, a citizen of the United States, at present residing in this city as attorney-in-fact of the Abra Silver Mining Company, appears before you, according to law, and sets forth, that the rights of the party represented by me, require me to

S. Doc. 231, pt 2—27

request you to examine the accompanying interrogatory, and give me your certified deposition upon the points therein contained, according to your knowledge of them, requesting that, with the certificate, the original petition and interrogatory be returned to me, as I require that document to present proof in the claims which I have made against Mexico, in behalf of the said company, before the Joint Commission now sitting at the city of Washington, under the treaty made between the United States and Mexico, on the 4th of July, 1866.

(Signed,)

A. W. ADAMS.

107

DURANGO, *July 23, 1872.*

[Here follows an order of court, directing the certificate to be given, and thereupon the originals to be returned.]

(Signed,)

BARRAZA, *Judge.*

(Signed,) FERMIN MONREAL.

(Signed,) JESUS GOMEZ.

[Here follows an entry of the notification of the above order to A. W. Adams.]
(Signatures.)

Interrogatory, in conformity with which the "First Judge of Litras," of the department of this capital, is requested to certify in due form.

1st. State your generalities.

Ans. My name is as before stated, thirty-eight years of age, married, a Mexican citizen, and at present holding the office before referred to.

2d. Were you acquainted with Joseph Rice, in San Francisco, Upper California, in the years 1863, 1864, and 1866?

Ans. I was acquainted with Joseph Rice, a citizen of the United States, in San Francisco, Upper California, in the year 1863, and I saw him there again during the years 1864 and 1865.

3d. Is it true that the said Rice, with whom you were acquainted in California, visited you at your office in this capital in October of 1867, and begged you to advise him as to the best lawyer to employ to assist the Abra Silver Mining Company for the purpose of obtaining the protection of the national and State authorities, against the acts of the Mexican local authorities at Tayoltita, in the district of San Dimas, in this State; and, if so, then state what lawyer in this city you recommended him to employ for the said company.

Ans. That in fact the said Rice, a citizen of the United States, visited the undersigned at his office in this city, in October, of 1867, and begged him to suggest to him one of the best lawyers to aid him in arranging some matters connected with the mines of San Dimas; that the undersigned introduced him to Lawyer Jesus Chavarria, but without knowing what was the business for which he required the services of a lawyer in this city.

4th. Whether Lawyer Chavarria was recommended by you to Mr. Rice as one of the best lawyers in the State, and whether after he made a petition to the Governor of the State, Zarate, you heard the said Chavarria state what had been the result of his efforts to obtain even a letter to the authorities at San Dimas, instructing them to protect the said company; whether Governor Zarate refused to grant what was requested; and if you heard the reason, and recollect it, state what it was.

Ans. That as he has stated, he recommended the said Chavarria as one of the best lawyers, and that he has heard this gentleman speak of the matter referred to in the question.

And at the request of A. W. Adams, a citizen of the United States, and in reply to all the questions contained in the interrogatory accompanying his petition of the 22d instant, I give the present certificate to serve him for the purposes which he may require, on two written pages of the third stamped paper.

Given at the city of Durango, on the 23d day of July, 1872.

(Signed,)

PEDRO J. BARRAZA.

108 We the undersigned, notaries public, hereby certify that the signature attached to the foregoing, is that of Pedro J. Barraza, the 1st criminal judge, acting in civil matters, and that all that is therein set forth is entitled to full faith and credit, in law and out of it.

In witness whereof we give the present, at the city of Durango, on the 25th day of July, 1872.

(Signed,)

JESUS CINCUNEGUI, *Notary Public.*

[*Rubrica.*]

(Signed,)

FELIPE VILLAREAL, *Notary Public.*

[*Rubrica.*]

I, General Florentino Carrillo, Governor and military commandant of the State of Durango, hereby certify, that the signatures which are affixed to the foregoing document are the true and genuine signatures of Lawyer Pedro J. Barraza, the judge of the first criminal court, and of the notaries public, Jesus Cincunegui and Felipe Villareal, and that they are entitled to full faith and credit.

And at the request of the party interested, I give the present at Durango, on the 25th of July, 1872.

(Signed,) JOSE PALAO, *Secretary.*

F. CARRILLO.

[Here follows certificate of Isaac Sisson, United States consul at Mazatlan, dated August 17, 1872, to the genuineness of the signature of the Governor and his secretary, acting in their respective capacities of Governor and secretary.

W. C. Ty, *Official Translator.*]

Document No. 53 E.

Deposition of Matias Avalos, of San Dimas, translated from Spanish.

CONSULATE OF THE UNITED STATES OF AMERICA, *Port of Mazatlan, Mexico, ss :*

On this the tenth day of September, eighteen hundred and seventy-two, (1872,) at ten o'clock in the morning, personally appeared before me, Isaac Sisson, United States consul for the port of Mazatlan and the dependencies thereof, Matias Avalos, a witness for the claimant, who having been duly sworn to speak the truth with regard to what he knows, and in reply to the questions put to him by me, with regard to the merits of the aforesaid case, says:

1st question. What is your name, age, place of birth, residence, and employment, and where did you reside and what was your employment from the years 1865 to 1868 inclusive?

Ans. My name is Matias Avalos; I was born near Tepic, in the State of Jalisco, in Mexico; I am a Mexican citizen; reside at San Dimas, State of Durango, Mexico; I have resided during the last seven years at Tayoltita, and San Dimas; I am at present working for the Durango Mining Company, as a courier and muleteer at San Dimas; I lived at Tayoltita from August, 1865, up to March, 1868; I worked the greater part of this time for the Abra Silver Mining Company, at Tayoltita, in the district of San Dimas, State of Durango.

2d question. Have you any interest, direct, contingent, or of any other kind, in the claim of the Abra Silver Mining Company, in support of which you give the present deposition, or are you the agent or attorney of the company, or any person who has any interest?

Ans. No, sir; absolutely none.

3d question. Have you given a deposition before in this case, in favor of the claimants? If you have, then state when, and before what authority, and who was the official interpreter of said authority when your testimony was taken upon that occasion?

Ans. Yes; I gave my testimony in favor of the claimants, two years ago, I think, in the month of May, 1870, in favor of the Abra Silver Mining Company, before the United States consul at this port, and ex-Governor Charles F. Galan was the interpreter, and wrote down my testimony before you, the consul. I requested Mr. Galan to write down my answers to the questions put to me by the attorney of the said company, and the consul consented that he should do so for me.

4th question. Was all that you then stated in favor of the claimant, the Abra company, the truth, or did you then state anything which you wish to now retract or change? If so, you now have the opportunity of doing so.

Ans. No, absolutely nothing; all that I stated in that deposition was the simple truth, and I do not wish to make the slightest alteration in it.

5th question. Were you forced or persuaded by any person to give that deposition, in 1870, in favor of the company, or was it given of your own free will and accord, or did you give it under the promise of money or reward, or any other consideration, except that of doing justice to the company and to Mexico?

Ans. No; I was not paid, nor was I promised any money or any other consideration whatever for my evidence in this case; nor did any one attempt to persuade or compel me to give the said deposition, nor could anybody have succeeded in doing so if

they had attempted to. It was given of my own free will and accord, after having stated to the attorney of the said company what I knew about the matter, and all was fairly and honestly done by all who were engaged in taking the said deposition.

6th question. Have you given your deposition, at San Dimas, in favor of the opposite party, that is, in favor of Mexico, since the time that you gave it in favor of the company? If you have done so, then state when, before what magistrate, and why you gave testimony in favor of the defendant at San Dimas; whether you did so of your own free will and accord, or were illegal means made use of to persuade you to do so?

Ans. No; I never gave my testimony in this case at San Dimas, or at any other time or place, of my own free will and accord, except before Consul Sisson, at this port, in the month of May, 1870, in favor of the Abra Silver Mining Company, as I have stated; nevertheless, it is true that Quiros, the judge at San Dimas, sent for me to give a deposition before him last summer, in connection with this case, and he sent me word that if I did not go to court, and give evidence against the Abra Mining Company, that he would fine me one hundred dollars, and otherwise punish me. I went to the court, and there found a multitude of natives of the country, armed, and some of them threatened me with violence, because the judge told them that I had given my deposition in favor of the company, and against Mexico. The judge wrote a deposition for me to sign, a part of which was not true, but I did not sign it, 110 because I could not write my name well enough to do so, otherwise I might, perhaps, have signed it, or put my mark to it, or to anything else which they might have written, as I would not have dared to resist, under the circumstances, as the general feeling prevailing there was one of violence, and those present were too numerous, and incensed against me for having told the truth in favor of the company two years before. I did not, however, even make my mark to the document which the said Judge Quiros had prepared for me to sign in favor of Mexico. For this reason, the judge began to read the paper which he had written for me to sign as my deposition, but there was so much noise in the court that he could not continue, when he said that "it was all right and correct," and got up and went out. I then took the said paper, and saw that my name was signed to it, and that it had my mark on it. I carried it to the door, outside of the court, and requested a Mexican to read it to me; he commenced doing so, but carried it back into the court again before he had finished it, saying that he was afraid to have it in hand outside of the court, since the judge might return and miss it; hence, I suppose that that paper went as my deposition, but I do not consider it as any evidence of mine in this case. Judge Quiros proceeded in this same way, I have been told, with many other witnesses there. The only deposition that I have given of my own free will and accord is the one which I now ratify, and which was given here before the consul, in May of 1870, in favor of the Abra Mining Company. This deposition was written at my request, and, as I stated, by Don Galan; it was lawfully read to me twice by the consul, or his official interpreter, before I signed it, and that is my deposition, and no other is of any value whatever.

7th question. Do you know of any other instances of this kind, in which the documents sent by the authorities as evidence in favor of Mexico were forged on a manner similar to yours; and do you know whether false occupations were assigned to the witnesses, to give them more importance or respectability, calling them miners, merchants, &c., &c., when in reality they were only loafers and vagabonds, who did nothing but spend their whole time in the bar-rooms and hang about the court? If you know the names of any, please state them?

Ans. I heard many people laughing, because the witnesses, called by the Government against the Abra Company, were called merchants and miners, when in fact they were only loafers, whose only quarters were the court or bar-rooms; but, as I live amongst them, and some of these men would not hesitate to use their machetes on me, I do not wish to say anything further upon the subject, touching the names of the witnesses who were styled merchants, miners, &c.; as I have stated, I shall have trouble enough for having said what I have in this case, which is nothing more than the truth. Quiros will, no doubt, send for me again, and I may, perhaps, find myself compelled to sign some paper contradicting what I have here stated, which will be sent as my testimony, and which is not true; and if I do not, I may be forced to leave my home and friends, and seek a home elsewhere, unless the consul can protect me. The judge, jefe politico, and also many other persons there, who are opposed to the Abra Company, have a very strong party, and I hope the consul will not oblige me to say anything more upon the subject of names. I have already said more than I ought to have said, and anyhow what I have said is all that I know about the matter.

8th question. Did you come to Mazatlan for the purpose of giving this deposition, or were you told to come for that purpose, or had you any idea, before coming to Mazatlan, that you were going to be asked to give this deposition? 111

Ans. No person whatever made me come here for this purpose, nor had I any knowledge whatever that my deposition would be asked for; I only learned so after I ar-

rived at this port. I came here in the employ of my company, the Durango Mining Company, to attend upon the sick family of our superintendent, the consul.

(Signed,)

MATIAS X AVALOS,
By H. DIAZ PENA.

Subscribing witnesses: C. B. DAHLGREN.
H. DIAZ PENA.

[Here follows the certificate of Isaac Sisson, the United States consul at Mazatlan, dated September 10th, 1872, to the proper taking of this deposition, to the credibility of the witness, and that his statements are entitled to full faith and credit.]

(Signed)

ISAAC SISSON, U. S. Consul.

[U. S. consular seal.]

W. C. T., Off'l Translator.

Doc. No. 50.

Rebutting testimony. In the matter of the claim of "La Abra Silver Mining Company" against the Republic of Mexico. Deposition of Charles B. Dahlgren, on behalf of claimant, to be submitted in evidence before the Joint Commission of the United States and Mexico. In session at Washington, D. C.

REPUBLIC OF MEXICO, CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Mazatlan, State of Sinaloa, ss:

At 2 o'clock this 18th day of September, 1872, before me, Isaac Sisson, consul of the United States, in and for the Port of Mazatlan and the dependencies thereof, personally appeared Charles B. Dahlgren, well known to me as the person he represents himself to be, and a credible witness, who after having been duly sworn by me according to law, to state the truth in answer to interrogatories propounded by me, touching the merits of the above-entitled cause, deposes and says:

Question 1st. What is your name, age, birth place, citizenship, residence, and occupation?

Ans. My name is Charles B. Dahlgren; I am 32 years of age; I was born in Hartsville, in the State of Pennsylvania, in the United States of America, and I am a citizen of the same.

I reside in San Dimas in the mineral district of the same name, State of Durango, Mexico. My occupation is that of assayer, machinist, mining engineer, and general superintendent of the Durango Mining Company, whose hacienda and works are at San Dimas.

Question 2d. Are you or not a son of the late Admiral Dahlgren, of the United States navy, and are you consul of the United States for the State of Durango, Mexico, lawfully appointed and confirmed, and as such recognized by the United States and Mexican authorities?

Ans. Yes; the late Rear-Admiral John A. Dahlgren, was my father, and I hold the position suggested in the question, and I am so recognized by said authorities.

112 Question 3d. Do you know, and have you visited and examined the mines, haciendas, and the late works and improvements of "La Abra Silver Mining Company," claimant in this case?

Ans. Yes; I know them, and have visited and examined them.

Question 4th. Where are said mines and property situated, and of what did said improvements of claimant consist, and in what condition are they now?

Ans. The principal mines of "La Abra Silver Mining Company," are in "La Abra" mountain, near Tayoltita, in said district of San Dimas. Their names are "El Rosario," "El Cristo," "La Abra," "La Talpa," "El Arrayan," "El Sauce," and some others in that district, whose names I have forgotten. The condition of those mines were good when the Abra company abandoned them; but since that time some of them have fallen in, and filled up with debris, and it would require large expenditures of money to reopen them, and to put them in as good condition as they were when the "Abra Mining Company" abandoned them. The improvements of that company consisted of a ten-stamp mill of the first class, a suitable mill-house for the same, two haciendas—the "St. Nicolas" and the "Guadalupe"—a large number of out-houses for the residences of the company's employees and their families, constituting, in appearance, a small village; together with supplies of every kind needed for carrying on silver and gold mining, and for beneficiating the same on a very large scale, all being situated near Tayoltita, in the said district of San Dimas. The stamp-mill and machinery have been torn to pieces, and parts of them sold and leased out for use in other places, and by other parties than their owners.

Question 5. Who claims ownership of the said mines, haciendas, machinery, stamp-mill, and other improvements of said "Abra Company," or, if you know, state who,

if any person, assumes or exercises the right to dispose of the said property of claimant, either by absolute sale, or by leasing out the same for use in other places than Tayoltita, and without authority to do so from claimant in this case? Will you please state all you know in relation to any such sales or lease of the mining tools, machinery, or the stamp-mill of said company, or any part of the same, giving names, dates, and circumstances so far as you can recollect them?

Answer. Yes; the local authorities of San Dimas claim that the Mexican Government owns that property, and they have sold and leased some parts of it. I know, too, that a Mexican citizen, whose name is Francisco Torres, and who is now, and has been for the past year and more, the occupant of said haciendas and mining property and machinery of said company, claims ownership of the same; and that he works the mines of claimant successfully, by "Patio" process, a part of them under a "denouncement" made of the "Rosario" mine in the name of one Granger, an Englishman; and although the denouncement is said to legally cover only one of the principal mines of said company, "El Rosario," which is probably the richest and most valuable of them all, he nevertheless works some of the other mines of said company in "Bonanza," and claims to own them all, as he told me when I was there, but a few months ago.

I know that parts of the stamp-mill and machinery of "La Abra" company have been taken away from the company's works at Tayoltita, and that the same are
113 now in use, and have been for two or three years past, by other mines and mining companies in distant places, some of them as far as three days' ride from Tayoltita. I know that a Mr. Hapgood, of Buena Vista, has a part of the claimant's mining tools and machinery. Mr. Hapgood has in use at his works in Buena Vista a "jack-screw," a large pair of scales, and many other things taken from said claimant at Tayoltita, and sold to him, as he told me, at a mere nominal value, by unauthorized persons. I visited Buena Vista in June last, where I saw and recognized those articles in use, and was told by Mr. Hapgood that he had been using them for his mining operations there for the past two years or more, and that they came from claimant's hacienda at Tayoltita. Buena Vista is about two days' ride, and for packing machinery it is three to four days' travel from Buena Vista to Tayoltita. I know that the "retort" belonging to that stamp-mill, and without which the whole mill is completely crippled for use, was taken from the "La Abra Company's" works at Tayoltita, and it is now in use by a Mexican citizen named Juan Cuevas, who works the same in the mineral district of Huahuapala, at a place called "Huahuapala," about three days by pack mules from Tayoltita. Said Cuevas has many other valuable parts of said machinery, or the iron taken from the same, together with large numbers of claimant's mining tools, which I saw there myself, and recognized as the property of claimant, adjusted to other machinery belonging to said Cuevas, and in use. This was in or about the month of December, 1871. I spoke to said Cuevas about the matter, as I had to Mr. Hapgood, and he said it was the property of claimant, which he confessed was taken from claimant's mill-house and hacienda; and he also told me he had bought it of some one at a mere nominal price, and considered himself, he said, very fortunate in getting hold of such machinery so cheap. I know of a number of thousand dollars worth of said machinery and tools taken from the stamp-mill and hacienda of claimant, and now in use in San Dimas, and in a number of the mineral districts adjoining the San Dimas district, and the same scattered over a territory of a hundred and fifty miles square, more or less, a part of which has been in use three years or more, and probably much of said machinery and tools worn out or nearly so.

I also know of other parts of said machinery belonging to "La Abra Silver Mining Company," at Tayoltita, having been sold to the company of which I am superintendent, and for which we are now held responsible for its appraised value by the judge of first instance in the district of San Dimas, with the privilege of using it all until called for, at an appraised value for the use of the same. After making some inquiries in reference to the real ownership, I heard, by common report in the district, that no individual had a right to sell and dispose of said property of claimant, but that its ownership was really with the Mexican Government; that a suit was pending before the Joint Commission of the two Governments, for reclamation, at Washington, and that the acts of the local authorities in compelling claimant to abandon its mining enterprise, it was claimed, had given the real ownership of said property to the Mexican Government. Last spring or summer, I found out the mistake made in buying some parts of the machinery of claimant from the wrong parties; I received a note from Judge Cipriano Quiros, the highest judicial authority in the district of San Dimas, last summer or spring, asking me to call upon him, at his court-room, in San Dimas, and settle the matter referred to with him. I called as requested, and the said judge then told me that only Mexican authorities could exercise any control
114 over the said mines, stamp-mill, machinery, and other property abandoned by "La Abra Silver Mining Company," at Tayoltita, and instructed me that the said purchase made of the tools and machinery named, and then in use by my com-

pany, was all right, if I would settle the matter with him, as representative of the Government of Mexico, for the value of said property; and as I was superintendent of the Durango Company, he said he was district judge—representing the Government of Mexico in this matter, could dispose of said property to me, by lease, or by sale, as he had, he said, received recent instructions on that point from the authorities of the Supreme Government. Finally, our interview ended by the sale, or lease of said property, for use by my company—the Durango Silver Mining Company—and he, Judge Quiros, made out to me, and he signed a written authority for me to take down and use for the benefit of my said company, all of the machinery left there, including the stamp-mill of claimant, at Tayoltita, and to put it in use at San Dimas, making me responsible to him or to the Mexican Government, for the appraised value of the same, or for its return to Mexican authorities, by paying the use of it, to be appraised also. I cannot remember the exact language of the lease, or sale; but this is the substance of it. He explained, at the same time, that in case said “Abra Company” should get a judgment against Mexico, as it seemed likely they would do before said Joint Commission at Washington, that said mines, hacienda, machinery, and stamp-mill then becomes the property of Mexico; and that it was, he said, his business, as district judge, to look out only for the interests of Mexico, and to secure, as nearly as possible, the value of said machinery and stamp-mill for the Government. He executed the lease, or paper obligation, authorizing me to take from Tayoltita such parts of said mining property as my company desired, or all that was left of said stamp-mill and machinery, if I wished it all, and to remove the same to San Dimas for use by the Durango Company; and he authorized me also to keep and make use of the parts of said machinery and tools which I had bought of irresponsible or unauthorized parties, holding me responsible to him—Judge Quiros—or Mexico, for the appraised value of that also, or for the value of its use as I might elect. I have a part of said machinery, so leased to me, in use now at San Dimas, and I intend to remove the balance of said stamp-mill, and all that remains of the machinery and mining tools of said “Abra Company” to San Dimas, or to such other place in that district as may be most profitable to my company, in order to work said mill and machinery under the lease, or written obligation referred to by and between said district judge and myself, to have the privilege of paying to Mexico the appraised value, and owning the same, or of paying Mexico for the use of said stamp-mill, tools, and machinery, and of turning over to the Mexican Government the same again, when said suit shall be decided by the Commission at Washington. I do not remember, now, the exact language of said sale or lease, for I have not seen it since the day it was taken, but I have stated its substance correctly.

Question 6th. Did said Judge Quiros receive from you any money, or other thing of value for executing said bill of sale, or paper obligation, authorizing you to take down and make use of said company's stamp-mill, tools, and machinery?

Ans. Yes; I sent him a present of twenty dollars in money, and I also sent him a week's rations for himself and his employes, which he received.

115 Question 7th. Will you now please present to the consul the written obligation, referred to as having been executed by Judge Quiros, selling or leasing for use said property of claimant, in order that a certified copy may be taken by the consul, and filed with this deposition at Washington?

Ans. It is not possible for me to present that paper called for by the question, because I did not bring it with me, as I would have done if I had known that it would have been required; or, had I anticipated this examination, of which I had no knowledge or intimation until I was notified to appear here for examination. I left that paper with the other papers of the Durango Mining Company, of which I am superintendent, all in charge of Dr. Sloeck, in my absence, and it would be impossible for me to produce the paper, as it is in the mountains, about two hundred miles from this place, and it would require, probably, a month to produce it here, if indeed it could be done at all, as the rebels have taken Mazatlan, and the entire road to the district of San Dimas, since I came down here and from the present political excitement and uncertainty, I cannot say when I may find it convenient or safe to return, as my feelings and views are known to be in favor of the government, or constituted authorities.

I was fifteen days coming from San Dimas to Mazatlan, including delays and hindrances occasioned by political disturbances.

Question 8th. Did the attorney of “La Abra” Company, or other person, request you to come to Mazatlan and give this deposition, or was the giving of your testimony in this case suggested to your mind, or thought of by you, before you arrived in Mazatlan?

Ans. This question is answered by my reply to one of the foregoing questions. I think I have said that I knew nothing of the purpose of the attorney for “La Abra Company” to have me examined, until notified in writing by the consul to appear and be examined in the case; nor had I the remotest idea of it. I came here with

my sick wife and family, to get them on board the steamer for New York, and also to purchase supplies for the Durango Company.

Question 9th. What is the character of the mines owned and worked by said "Abra Company," at Tayoltita, which you have named, so far as regards their richness of metal, and supply of the same.

Ans. It is good. They are undoubtedly among the best and most valuable of all the silver mines of Mexico, and some of them are not unknown to fame for their rich and abundant productions. I refer more particularly to "La Abra," "El Rosario," "La Talpa," and "El Cristo" veins. I should like to own them, if it were possible to raise capital to work them, and to secure proper protection from the local authorities, which I think improbable, if not impossible, in Tayoltita, to secure any protection.

Question 10th. Did you, when at Tayoltita, observe the piles of silver ores on the patios of the company, so as to be able to state the quantity and value of the same? If so, state it.

Ans. I think not; I did, however, more than once, observe said ores. The company left great piles of them on the "patios" which they had taken out and packed down from their said mines, and the average of them were said to be very rich of silver metal, with a small percentage of gold; but I also observed, there, unmistakable evidences of that which had been a common report for a long time, that those piles of ores had been torn down and the richest of their metals culled out and carried away, leaving upon those extensive "patios" the poorest of them, which
116 were scattered over a large surface, covering, I should say at least a quarter of an acre of ground. It was said that the company abandoned about a thousand tons of those metals, but not half of them remained when I saw them in 1870; and those that were left gave evidences of having been torn down, culled out, and rejected. I cannot state the value of those that I saw, but I think from a cursory examination of them, that even the poorest and rejected pieces would pay well to beneficiate.

Question 11th. What, in your judgment, was the value of the mines, machinery, stamp mill and other improvements belonging to and worked by "La Abra" Company, which you have named; state your opinion of their value in March, 1868, and at the present time, and also the amount of money which that company must have expended in said works, in your opinion?

Ans. I should value those mines at not less than one million dollars, in 1868, and the company's improvements at half a million more, and if they could have been held and worked by their magnificent machinery and stamp-mill, without interruption, or "prestamos," and with anything like an assurance or hope of protection, I would now value them at three or four times that amount. If the parts of the stamp-mill could be found, and put together again upon their grounds at Tayoltita, and all the machinery there in as good order as when the same was abandoned by the company, I should value the whole at four to five million dollars, not less than four million, (\$4,000,000;) but I do not believe it possible ever to get that machinery together again, as the parts stolen and sold are so scattered over several mining districts in the State, and much of it partially worn out, or refitted to other machinery, so that it would, in my opinion, be better and cheaper to repurchase a new stamp-mill, and machinery, and bring it there from the United States, than go to the uncertain expense of hunting up and replacing that which was taken away from them at Tayoltita. I should value the ores taken out of said mines, and abandoned by that company, in 1868, at half a million dollars, judging from what I have seen there myself, and have heard stated by reliable miners in that district, and also by common report, or public opinion, which is seldom in error among practical miners in such cases. The refuse ores which have been culled over and rejected, and which still remain upon the ground, are worth but little. They might beneficiate as high as a hundred thousand dollars, but I think not to exceed that amount. I believe four-fifths of the ores of value have been stolen from the company's "patios," and sold in other places. This, too, I only know from common report, which I believe to be true, from all the circumstances made known to me by Mexican miners at Tayoltita.

Question 12th. Do you know whether *Marcos Mora*, *Macario Olivera*, or other Mexican authorities of San Dimas, in 1866, 1867, and 1868, were enemies to "La Abra" Silver Mining Company, or whether any of said authorities encouraged Mexican miners to commit depredations upon said company or their property at Tayoltita, or whether said authorities, or any of them, incited disturbances, or encouraged the expulsion of said company from their mines, and from the country, in the years named?

Ans. I do not know of my own knowledge, but I have heard that all those things were done there by the authorities named. I have heard it stated there that *Macario Olivera*, prefect in 1868, and *Marcos Mora*, whom he succeeded, were enemies of "La Abra" Company, and that they, and some other authorities in the district acted

badly, and favored the expulsion of La Abra Company, but of this I have no personal knowledge.

117 Question 13th. How many foreign companies were there doing business in mining, in San Dimas district, in 1866 and 1867, and how many are now left in the district of San Dimas? Is there any at all except the Durango Company, which you represent as superintendent?

Ans. There were a large number of American mining companies in that district in the years named; but only the Durango company now remains.

Question 14th. How is it that your company can remain there without disturbances? Ans. We have had disturbances and difficulties, but we have found it necessary to submit to all exactions, whether lawful or unlawful, which makes it to the interest of the authorities to keep us there; we have found out how to manage and *interest them*, otherwise I suppose my company would be compelled to leave like the others, without a doubt.

Question 15th. Do you know Matias Avalos, of said district?

Ans. Yes; I know him very well; he is and has been for the last four years in the employ of the Durango Company, of which I am superintendent; he is now with me in Mazatlan, as muleteer and mozo.

Question 16th. What is the character of the said Matias Avalos for truth and veracity, in San Dimas, or where he is best known?

Ans. It is good. I look upon Matias Avalos as a strictly honest, truthful, and trustworthy man. I have frequently entrusted him with large amounts of silver coin, which he has always brought safely to the company from Mazatlan, and also with bullion from San Dimas to the mint at Durango, and Culiacan, and he never, as many others have done, reported a loss, which he might have done without detection or suspicion; but his reports are always candid and truthful. He is regarded as a strictly honest, conscientious, and reliable man.

Question 17th. Have you heard anything about witnesses having been suborned by Mexican authorities of San Dimas, to testify for the defence against their will, and in contravention of what said witnesses had previously testified to on the part of claimant in this matter, by threats of inflicting a fine of one hundred (100) dollars and imprisonment, if they did not come to court and testify against claimant? If you know of any such case, state the names of such authorities and of the witnesses so threatened and suborned; and, if you know, what was the result of the same?

Ans. I have heard of such threats being made by Judge Milan, and by the said Judge Quiros, who succeeded him in office as chief magistrate of the district of San Dimas.

These threats were made against Matias Avalos, and James Granger, both of whom, it was said, had previously testified on behalf of the claim of "La Abra" Company; and I heard Matias Avalos say that said district judge wrote down a statement, for him to sign, on behalf of defendant, which was against his will, and not true in point of fact; that said judge wanted Avalos to retract what he had sworn to in favor of said Abra Company, in 1870, and Avalos complained that the judge did not finish reading the paper that he wished him to sign, as he, the judge, said there was "too much noise in the court room." I heard Avalos say that he believed said paper was sent to Washington, with his name and mark attached to it, as his testimony in favor of Mexico, to which he never consented, as he knew that a portion of that part which had been read to him was not true.

I have heard of other and similar cases in this matter, but I have no personal knowledge of the facts. I believe the statement of Matias Avalos, however, to be true, for reasons stated in my answer to one of the foregoing questions (No. 16.)

I heard the said Granger say that if he had not complied with the demand of the judge of first instance of San Dimas in testifying against "La Abra Company," the claimant, that he knew he would have been compelled to give up his mining interests in that district, and leave the country; which he said he could not afford to do, and therefore he was compelled to sign the testimony. This is all I recollect in reference to the matter.

Question 18th. Have you any interest, direct, contingent, or otherwise, in the claim of said "La Abra Silver Mining Company," to support which your testimony is here given, or are you agent or attorney for said company, or for any person having such interest?

Ans. No, none whatever; nor am I agent nor attorney for claimant, nor for any other party in interest.

Question 19th. Was your authority to take from Tayoltita, the said stamp mill, machinery, and other property of claimant, and to make use of the same in other parts of the State, given verbally, or only in writing; and was said property turned over to you with a view to your protecting the same as consul of the United States, for the benefit of claimant, or was said authority given to you only as superintendent of the

Durango Mining Company, with the privilege of paying the appraised value, and of owning the same, or to pay for its use to said authorities, or to Mexico, as a business transaction between said authorities and your company?

Ans. The latter is the fact. It was a purely business transaction between Judge Quiros, representing the Republic of Mexico, and myself, as superintendent, representing the Durango Mining Company. There was nothing said by Judge Quiros, to my recollection, about protecting said machinery, stamp mill, and other movable property of claimant. The transaction was not with me as consul; but, as I have stated, the property was leased for use to the Durango Mining Company, and for a valuable consideration, with the privilege of paying for the same at an appraised value by disinterested parties.

This authority was given to me by Judge Quiros, verbally, as well as in writing, and I have acted upon it in good faith, believing then, as I still feel justified in believing, that he must have had authority from the Supreme Government to act in the premises, or otherwise it is reasonable to suppose that he never would have taken such a step in the matter as that of selling or leasing out this property, under the circumstances, to be worn out by use.

["Interlined in the original:" Page 2, lines 16 to 17, the words "a son;" page 2, lines 29 to 30, the word "an;" page 6, lines 17 to 18, the word "the;" page 7, lines 5 to 6, the words "the stamp;" page 7, lines 27 to 28, the word "said;" page 9, lines 32 to 33, the word "them;" page 11, lines 22 to 23, the word "be."

[Erased: Page 1, third line from bottom, "bef.;" page 4, line 42, "Buena Vista;" page 15, line 12, the word "said."

["The above corrections were noted before signing, with the consent of deponent, and in the presence of the subscribing witnesses."]

(Signed,)

C. B. DAHLGREN.

Witness:

(Signed,) H. DIAZ PENA.

119 Sworn to and subscribed before me, this 18th day of September, A. D. 1872.
(Signed,) ISAAC SISSON,

U. S. Consul.

[Seal of the U. S. Consulate for Mazatlan.]

CONSULATE OF THE UNITED STATES OF AMERICA,

Port of Mazatlan, Mexico, as:

I, Isaac Sisson, consul of the United States of America, in and for the port of Mazatlan and the dependencies thereof, do hereby certify that I have no interest, direct, contingent, or otherwise, in the claim of "La Albra Silver Mining Company," in support of which the foregoing testimony is taken; that I am not the agent or attorney of said company, nor of any person having such interest; that I am competent and duly authorized under the laws of the United States, and by special orders from the Department of State for the same, to take depositions to be used in evidence before the Joint American and Mexican Commission, in session at Washington, under the treaty of July 4th, 1868; that Charles B. Dahlgren, the witness herein, personally appeared before me, at my consular office in Mazatlan, State of Sinaloa, Mexico, on the day and at the time hereinbefore stated, and that he was by me first duly sworn, as a witness on behalf of claimant, to state the truth in answer to said interrogatories, propounded by me, touching the merits of the above-entitled cause, as hereinbefore set forth, and was thereafter duly examined, and that the foregoing testimony was given by him, and thereupon reduced to writing by H. Diaz Peña, in my presence; and I further certify that said H. Diaz Peña, who transcribed said testimony, has no interest, direct, contingent, or otherwise, in the said claim, and is not the agent or attorney of said claimant, nor for any person having such interest; and I do further certify that said Charles B. Dahlgren, the witness aforesaid, is what he represents himself to be in the foregoing deposition, and that he is a man of the highest respectability, well known to business men of Mazatlan as a competent and responsible person, and that full faith and credit may be given to all of his acts, and to his testimony in this cause; that the foregoing deposition, when completed, was carefully read over by me to said witness, before signing, in presence of the subscribing witnesses, and was by me corrected in every particular desired by him, and he then and there declared his testimony as hereinabove set forth.

Given under my hand, and the seal of this consulate, the day and date above mentioned.

(Signed,)

ISAAC SISSON,
U. S. Consul.

[Seal of the U. S. Consulate for Mazatlan.]

Rebutting testimony before the American and Mexican Joint Commission in session at Washington, D. C., under and by virtue of the treaty of July 4th, 1868. Deposition of Nicholas Alley on behalf of claimants, La Abra Silver Mining Company vs. Republic of Mexico.

Doc. No. 44 G.

REPUBLIC OF MEXICO, CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Mazatlan, ss:

At ten o'clock a. m. this 25th day of September, A. D. 1872, personally appeared
Nicholas Alley, who having been first duly sworn to state the truth with refer-
120 ence to what he may know touching the merits of the above-entitled claim, and
the manner and mode of taking defensive testimony by Mexican authorities,
deposes and says:

My name is Nicholas Alley; I am 25 years old; I was born in Fayetteville, in the county of Lafayette, in the State of Alabama, in the United States of America, and I am a citizen of the same; I have resided in Mexico for five years last past; my occupation during the principal part of that time has been mining, and in the cotton factory business; my present occupation is that of superintendent of the "Mazatlan Cotton Factory." I know well the claimant "La Abra Silver Mining Company," of Tayoltita, Durango, by reputation, and I am personally acquainted with A. W. Adams, the attorney of claimant, and was with him in the city of Durango, in the month of July last, 1872, where said attorney was engaged in procuring from the records, or files of the State Department, certified copies of title papers, and also in taking the depositions of witnesses in support of said claim; that in July last deponent also became acquainted with a man in Durango who called himself "Dr. Rapp," or "Rap," and deponent knows of a personal difficulty, or encounter at Durango, between said "Dr. Rapp," "a southern man," as he called himself, and said attorney of claimant, A. W. Adams, which difficulty was commenced by said Rapp, who denounced all "Union men" as scoundrels, and boasted of having fought against the Union, and deponent heard said Rapp also denounce "La Abra Silver Mining Company," calling them bad names, he, Rapp, taking the part of Mexico against the claim of said company; and deponent further says, that some time in July last, while at Durango city, he met the said Dr. Rapp on the sidewalk in said city, and said Rapp asked this deponent to join him, Rapp, in defeating the claim of said "Abra Silver Mining Company," and deponent asked him, Rapp, how he proposed to do it, to which said Rapp replied, "join me and my plans against Adams and his company's claim, and I will show you how to do it, and we shall make lots of money out of this thing, for the authorities here are determined to defeat this claim, and they are willing to pay us liberally if we will help them to accomplish this work, which we can do easily enough;" and the said Rapp then went on to state his plan for defeating this claim, which was as follows: The District Attorney, or his assistant, he said, had engaged him, "Dr. Rapp's services, and was to pay him a contingent fee of five thousand dollars, conditioned upon the defeat of said claim," and that he, Rapp, was to have a liberal amount of money with which to procure witnesses to testify against said claim, which money was to be advanced from time to time as it might be needed, and he, Rapp, proposed to divide with deponent the contingent fee, and also a large part of the money to be advanced for witnesses, and he remarked that Mexico would advance as much as twenty dollars per head for witnesses, and Rapp said he could get Mexicans there to testify to anything he wanted them to state against said Adams, and his company's claim, for five dollars each, and we could divide the balance which would be about fifteen dollars per head; but he, Rapp, closed his proposition by saying that he wanted me "to lead off as the first witness," and I asked him what he could prove by me, and Rapp replied that he wanted me to testify against Adams and his manner of taking depositions there; that he would tell me what to say, and all the particulars, after he had consulted with the attorney or assistant district attorney for the Government, and he went on to say that he had taken an oath to ruin Adams,
121 the attorney for the company, and to defeat the said claim; and that he would do it if it should cost him his life. He seemed to be full of malignity and hatred, and determined to carry out his project. After listening to his proposition and his mode of defeating said claim, which I remember embraced a proposition to attack the character of said Adams, and his alleged illegal manner of taking proof in Durango, as stated by Rapp, I declined to join him in this infamous work.

He wanted me to testify that said Adams, attorney for "La Abra Silver Mining Company," had offered to bribe me to give testimony in favor of the claim, and I asked him how I could do that, as Adams had never proposed anything of the kind, and that he had never even offered to make me a witness for the company, as I knew nothing about the case. Rapp said "that made no difference, as no person should ever know how it was done, or whether Adams proposed it or not," and that we could make a pile of money out of this case. I told him that I had never seen anything in

the conduct of said Adams that looked unfair or improper; that he, Mr. Adams, had conducted himself and the affairs of the company at Durango in a gentlemanly and honorable manner, so far as I had been informed, or could observe while there; and that I would have nothing to do with this scheme. The said Rapp invited me to take some wine with him, and requested me to say nothing about the conversation. I made no reply to his request, but considered it my duty to tell said Adams of the trap they were setting for him, and the schemes they were concocting at Durango for his injury, and to defeat said claim, all of which I told him the same day in the presence and hearing of Colonel Clarence Key, who accompanied said Adams to Durango, as interpreter and translator, Charles Schultz, and several others, who were members of the escort, or personal guard, traveling with the said attorney, Mr. Adams. The authorities of the State offered no facilities, but tried to prevent said attorney from procuring title papers, or depositions, while there trying to do so in June and July last. I have no interest, direct, contingent, or otherwise, in the above-entitled claim, and I have no personal knowledge as to its merits or demerits, and I am neither agent nor attorney for said claimant, nor for any person having such interest. And further this deponent saith not.

(Signed,)

NICHOLAS ALLEY.

Witnesses:

(Signed,)

H. DIAZ PENA.

D. DANGLADA.

[Here follows the usual certificate of Isaac Sisson, United States consul for the port of Mazatlan, to the proper taking of the above deposition, and that he knows the witness, Alley, and that his statements are entitled to full faith and belief.]

(Signed)

ISAAC SISSON, U. S. Consul.

[U. S. consular seal.]

122

Doc. No. 43.

[Translated.]

Deposition of Antonio de la Peña, wholesale merchant, of Mazatlan.

CONSULATE OF THE UNITED STATES OF AMERICA, REPUBLIC OF MEXICO,
Port of Mazatlan, ss:

At ten o'clock, on the morning of the second day of December, 1872, personally appeared Don Antonio de la Peña, who, having first been duly sworn to speak the truth with regard to what he knows concerning the merits of the aforesaid case, and being known to this consulate as a truthful, responsible, and competent witness, made answer to the following interrogatories.

1st question. Your generalities?

Ans. My name is Antonio de la Peña; I am 39 years old; my residence is at Mazatlan; my occupation that of a merchant; I have a wholesale grocery and provision store, and supply merchants, and miners, and others from the interior; I am a Spanish subject.

2d question. Are you the principal of the house of "Peña & Co.," successors of "Echenique Peña & Co.," of this city?

Ans. I am.

3d question. How long have you been in business here?

Ans. Twenty-three years.

4th question. Do you know the Abra Silver Mining Company, the claimant in this case, and its officers and superintendents?

Ans. Yes; I know it, and have had business with them.

5th question. State when, and how long, you have known the company and its officers; where their mines and works were located, and what was the nature and extent of your business relations with them?

Ans. I knew the Abra Silver Mining Company, by reputation, from the commencement of their mining operations, in June or July of 1865, and while they were bringing to this port, and transporting their stamp mill, machinery, and mining implements to their mines. The mines and works of the said company were located at Tayoltita, in the district of San Dimas, in the State of Durango, Mexico. I did not sell any very great quantity of goods to this company until up to the time the company left off dealing with the house of "Echehuren Quintana & Co.," which, I think, was in August of 1866, although we sold them some goods; the company did all their business with Echehuren, Quintana & Co., and some other houses in this city. From the year 1865 up to March, 1868, when their business was destroyed, we did a large

amount of business with them. We supplied this company with provisions and other articles for their mining operations at Tayoltita, and a considerable amount of money for the payment of the company's mechanics and other employees. We have disbursed, in money and provisions for the company, a total of a little more than sixty-seven thousand dollars, (\$67,000.)

6th question. Have you been reimbursed by the company for all the money, provisions, and other articles which you furnished to the company for their mining operations at Tayoltita, with exception, only, of a small amount which you recently loaned the superintendent to pay his passage to the United States, and some other expenses when the company was compelled to abandon their business in March, of 1868?

123 Ans. Yes; it has all been paid; we sent on the certificates and drafts from time to time, when we made any disbursements for account of the company, and they were all duly and fully paid, either at San Francisco or New York, in gold or silver, to the amount of sixty-seven thousand dollars. The sum of two hundred and fifty dollars (\$250) which we loaned to the last superintendent, Mr. Exall, is all that remains unpaid.

Question. Have you any interest, direct or contingent, or of any other kind, to the present claim referred to by you in your deposition, or are you the agent or attorney of the company, or of any person who has any such interest?

Ans. No; I have no interest.

(Signed,)

ANTONIO DE LA PEÑA.

Witnesses:

(Signed,) H. DIAZ DE LA PEÑA.

(Signed,) D. DANGLADA.

[Here follows, in the original on file, the certificate of the United States consul at Mazatlan, dated December 2d, 1872, of the proper taking of said deposition by him; and that the witness, Don Antonio de la Peña, is one of the principal wholesale merchants of Mazatlan; that he is a man of responsibility, of good character for truth and veracity, and that his statements are entitled to full faith and credit.

(Signed,)

ISAAC SISSON, U. S. Consul.

[SEAL OF U. S. CONSULATE.]

W. C. T., Official Translator.]

Doc. No. 45.

Before the American and Mexican Joint Commission, Washington, D. C., under the treaty of July 4th, 1868. Deposition of Don Pedro Echeguren on behalf of claimant, "La Abra Silver Mining Company," against the Republic of Mexico.

CONSULATE OF THE UNITED STATES OF AMERICA,

Port of Mazatlan, Mexico, ss.

At 10 o'clock a. m. this 9th day of December, 1872, before me, Isaac Sisson, consul of the United States of America, in and for the port of Mazatlan and the dependencies thereof, personally appeared Don Pedro Echeguren, a witness introduced on behalf of claimant, and being well known to me, personally, as the principal of the banking house and commercial establishment of "Echeguren Hermanos y Campañia," and being first duly sworn according to law to state the truth in relation to all he may know concerning the merits of the above-entitled cause, deposes, and in answer to the following interrogatories propounded by me, says:

Question 1. What is your name, age, nativity, citizenship, and occupation?

Ans. My name is Pedro Echeguren; my age is 46 years; I was born in Spain, and am a subject of Spain; my residence is in Mazatlan, Mexico; and my occupation that of merchant and banker.

Question 2. Are you one of the brothers, and the principal of the banking house, and of the wholesale mercantile firm of "Echeguren, Hermanos y Ca.," successors of "Echeguren, Quintana y Ca.," of Mazatlan?

Ans. Yes; I am senior member of that house.

124 3d. How long have you been engaged in said business in Mazatlan?

Ans. Over twenty years.

4th. Say if you were acquainted with the claimant, and its superintendents, from the summer of 1865, up to about March, 1868; and if yea, say how you became acquainted with said company and its officers?

Ans. I became acquainted with Mr. Thomas J. Bartholow in the year 1865. I became acquainted with said gentleman, and remember that he had to do with "La Abra Silver Mining Company," either as officer or otherwise—first, through Don Juan Castillo de Valle, of Durango, and afterwards I transacted some business for them.

5th. Did you know the names and locality of said company's mines and works, and of what said works consisted; and, if yea, state them?

Ans. It is known to me that that mining company was located in the district of San Dimas, Durango; that they worked several mines, which they owned, and also some haciendas for beneficiating ores, purchased from Don Juan Castillo de Valle, and Don Ygnacio Manjarrez.

6th. Is it true that the money was paid over the counter of your banking house in Mazatlan, by the agents of said "Abra Silver Mining Company," for the mines owned and subsequently worked by said company at Tayoltita, in said district of San Dimas? And, if that is true, how much money was so paid, and by whom as agents of said company, and to whom was the said money paid for said mines?

Ans. Yes; it is true, and I recollect that I also acted as interpreter for the parties at my banking-house, on that occasion, in Spanish and English. The amount of money agreed upon for the said mines and haciendas, bought from Don Juan Castillo de Valle, by General Bartholow and Mr. David J. Garth for that company, was paid to Mr. Castillo de Valle himself, in certificates of deposit and drafts on San Francisco, which we cashed, and they were duly paid when presented by our house, in San Francisco. The first amount so paid was fifty thousand dollars (\$50,000) gold coin. The second amount paid by the same to the same, for mines and haciendas, was eight thousand five hundred dollars (\$8,500) gold coin.

7th. Did you receive from one of said agents of "La Abra Silver Mining Company," for safekeeping in your bank vaults, the perfected title deeds and evidence of original denouncements, soon after they were made over to said agents for the use of said company, by Don Juan Castillo de Valle? And, if so, who was the agent so depositing said deeds with you, and what became of them?

Ans. Yes, I did receive from General Bartholow, for safekeeping, the title papers referred to in the question, delivered to him by Don Juan Castillo de Valle, and which were turned over to A. W. Adams, attorney for said company, in April, 1872.

8th. What amount of gold or silver coin was disbursed by you, or sent through your banking-house by said company for its use in opening, improving, and working said mines, between the month of June, 1865, and March, 1868, inclusive; say, also, the entire amount of your disbursements, both in money and supplies, for the use of said company, in carrying on said works at Tayoltita, from the said purchase of its mines, in 1865, up to its abandonment of the enterprise in March 1868?

Ans. From July, 1865, to August, 1866, there was paid, or advanced by my firm to La Abra Silver Mining Company's agents, in supplies for its miners, money and freight on machinery forwarded to said mines, in the aggregate, fifty thousand one hundred dollars, (\$50,100,) making, in all, one hundred and eight thousand six hundred dollars (\$108,600) in gold and silver coin, paid over my counter for said company's mines and works at Tayoltita, Durango, for all of which we were duly reimbursed by the company, on the presentation of our certificates and drafts, at San Francisco and New York. After August, 1866, this company transacted its business, and received a part of its supplies and money through other houses. I believe the house of "Echenique, Peña y Ca." was one of them, and I don't know how many others. Much of the company's supplies, machinery, and even money, was received from the steamer or vessel direct, and their mule teams packed at the wharf for their mines, without being consigned to any house here. This was going on while we were doing business for the company, but I cannot say what proportion or amount of such supplies were so received.

9th. What do you know about impressments of men, money, and supplies belonging to said company, by the military authorities of this Republic, while the same were on the road between this city and the mines of said company at Tayoltita, at any time between June, 1865, and March, 1868; or of the seizure of said company's money, mule trains, and supplies, as "prestamos," by said military authorities?

Ans. I recollect to have heard from the first superintendent, General Thomas J. Bartholow, of the troubles and difficulties he encountered, soon after they occurred, on the road from this place to Tayoltita, in 1865 and 1866, when attending to the transportation of the company's machinery and supplies, being continually detained on the road by the said military people, and that he had to contend with them, and to pay large amounts of money, "prestamos," in order to be allowed to go on; and that these acts were repeated several times on the road, and although I did not witness those acts, they were common during the time referred to in the question, and those molestations and hindrances, and the losses of this company in that way were publicly spoken of here, and believed to be true.

10th. Was there, within the time mentioned, from 1865 to the spring of 1868, any protection of foreigners from "prestamos," or "forced loans," or the seizure of their supplies and workmen by the military authorities of Mexico, in the States of Sinaloa and Durango, or any effort made, or disposition shown by the National or State authorities to protect foreign miners, farmers, and merchants from such outrages by the Mexican military authorities operating in these States, even when such protection was imploringly and lawfully invoked?

Ans. In that time, as well as in the present period, I think it may be said that very little or no protection was so extended, or offered to foreigners, either personally, or to their interests. In the destructive state of things in which, generally in this country, such inhabitants, with few exceptions, happened to be personally molested, either by the rebel parties or by the legal authorities, both of them helped themselves freely to the property of Americans, and other private parties. "Prestamo" is the general name given, but "forced loan," I think, is not the proper signification, as often the property disappears without any previous notice to the owner, and without any hope of recovery or indemnification. Under these circumstances, it is of no use to seek protection; all we can do is to keep silent, and bear the consequences, hoping eventually to find some relief.

11th. Are not the said military authorities still exacting and collecting such "prestamos," or "forced loans," up to this date, from foreign miners, bankers, and merchants, with which to support the army of the republic? and, if yes, is it true that they exact and collect from you, and your house, heavy forced loans for that purpose? And is there any protection against these outrages or robberies, given or offered by the general Government of Mexico, or any effort made, or disposition shown, by the State or national authorities here, to extend such protection to foreigners, when invoked to do so? Say also what amount of money and goods, or other property, was taken from you and your house, by "forced loans," or "prestamos," exacted and collected by the national or State military authorities, since July, 1865?

Ans. It is really the case, that in this part of the country private interests bear the expense of the federation army, and employees and foreign merchants, miners, and farmers, are frequently lending large amounts of money, on what is called "prestamos," not spontaneous, but "forced loans," and they are compelled to do so for fear of being molested, or personally injured, and it may be said that there was, and is, no protection, neither for such individuals nor for their interests, by any of the authorities of these States. The different sums of money we have disbursed to said military authorities upon such loans, or "prestamos," from 1865 to 1871, exceeds one hundred and fifty thousand dollars (\$150,000,) and during the past year ninety thousand dollars, (\$90,000,) making an aggregate of upwards of two hundred and forty thousand (\$240,000;) this includes all "prestamos," or forced loans from my house during the seven years last past, as shown by the books of my house, of which amount therebels or "pronunciados," have taken from us thirty-one thousand dollars, (\$31,000,) which the legally constituted authorities refuse to recognize, by their usual promises to pay.

12th. Would you have considered it prudent, advisable, or safe for La Abra Silver Mining Company to have returned, or attempted to return, to their said mining operations at Tayoltita, or to make any further investments there, at any time since the forced abandonment of the same in 1868?

Ans. Under the circumstances then, or now, I would not.

13th. Have you any interest, direct, contingent or otherwise, in the above-named claim, to which your deposition relates, or are you either agent or attorney for claimant, or for any person having such interest?

Ans. No; certainly not.

(Signed,)

PEDRO ECHEGUREN.

Witnesses:

(Signed,)

H. DIAZ PENA.

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D. DANGLADA.

[Here follows, in the original, the certificate of Isaac Sisson, U. S. consul, that the deposition of the witness, Don Pedro Echeguren, was regularly and lawfully taken; that said witness is one of the largest bankers and merchants of Mazatlan—a man of good repute for truth, and that his statements are entitled to full faith and credit.

W. C. T., *Official Translator.*

127

Doc. No. 42.

La Abra Silver Mining Company versus the Republic of Mexico. Before the American and Mexican Joint Commission, in session at Washington, D. C.:

CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Mazatlan, Mexico, ss:

I, Isaac Sisson, consul of the United States of America, in and for the port of Mazatlan and the dependencies thereof, do hereby certify that, yesterday, the 13th day of December, 1872, at about 6 o'clock p. m., I was standing in the wholesale grocery and provision store of Lewels & Co., in this city, Mazatlan, Mexico, when General

A. W. Adams, an American citizen, came into said store with two or three depositions in his hand, which had been taken before me, in behalf of American claimants against the Republic of Mexico, to be presented as testimony before the American and Mexican Commission at Washington, under the treaty of July 4th, 1868, and I took one of said depositions in my hand, given by the witness Don Antonio de la Peña, who is one of the largest wholesale grocers and supply merchants here, and one of the most respectable citizens of Mazatlan, who had testified before me in behalf of "La Abra Silver Mining Company" against Mexico; that said deposition was neatly gotten up, and was securely fastened down with ribbons under the seal of the United States consulate; that I opened said deposition, which was written in Spanish, and read aloud one or two of the answers of the witness, in which he stated the amount of his disbursements for said company, while working its mines in the district of San Dimas, Durango, and I also read aloud, in Spanish, the title page of said deposition against the Mexican Republic, and a Mexican clerk in said store, asked Mr. Adams, the attorney of said company, in Spanish, if he intended to send those depositions forward to Washington by the steamer due at Mazatlan the 14th, (to-day,) and I answered the clerk, in Spanish, that he would send them forward by that steamer on her arrival, and as I laid the said deposition on the counter, at that moment an elderly Mexican who had listened to the reading of the title page of said deposition, and to the statement, in Spanish, that it was to be forwarded to Washington the next day, suddenly snatched said deposition from under my hand, and tore it into pieces, breaking the ribbons fastened under the seal, and tearing it up, started to leave the house with the pieces in his hand, but the said attorney, Mr. Adams, ran after said Mexican, and took from him, by force, the torn pieces of said deposition, when said Mexican fled and ran away from said store, before it was possible for said attorney, or myself, to get his name, and the clerks in said store of Lewells & Co. were asked by said Adams if they knew the Mexican who had snatched and torn up the said deposition in my presence, and from under my hand, but they all denied that they knew him, and I have not yet been able to ascertain his name. As this malicious-looking Mexican had the appearance of a man of intelligence, it was evident to my mind that he, having attentively listened to the reading of the title-page of said deposition, in favor of "La Abra Silver Mining Company, contra La Republica de Mexico," wickedly determined that there should be one deposition less to go forward against his country, and, by this unworthy act of snatching and tearing up this deposition, that he

128 would contribute to the defeat of said claim. I can conceive of no other motive to induce said Mexican to commit such an outrage against an American claimant; and having acted as magistrate in taking said deposition, I feel it my duty, as representative of the United States Government, to give this certificate, which I do at the request of the attorney for claimant, to show the desperate means resorted to defeat the claims of American citizens.

Given under my hand, and the seal of the consulate of the United States, this 14th day of December, A. D. 1872.

(Signed)

ISAAC SISSON, U. S. Consul.

[Seal of the U. S. consulate for Mazatlan.]

129 [NOTE.—For the convenience of the Commission, La Abra Silver Mining Company hereby presents both sides of the case, in print. The following are translations of all the documents offered in evidence by the Mexican Government in this case, and filed as copies of the originals retained at the capital of Mexico.]

DEFENSIVE EVIDENCE.

Filed October 30, 1873.

EXHIBIT No. 2, (taken in 1870-71.)

(Translated.)

[Section of America.] Republic of Mexico, Government Secretary's Office of the State of Durango—office of the Secretary of State and Bureau of Foreign Relations—section of America.

The "Abra Silver Mining Company" has presented a memorial before the Mixed Commission, setting forth the following: [here the memorial is inserted,] which is transcribed in order that you may be enabled to procure from the proper parties, all

information and documents that may tend to throw light upon the acts set forth in said memorial.

Independence and liberty. Mexico, December 2d, 1870.

(Signed,)

LERDO DE TEJADA.

To the Governor of the State of Durango.

The above is a copy of the original, to which I certify, on account of the absence of the secretary.

DURANGO, Dec. 22d, 1870.

(Signed)

J. GEROMINO HERNANDEZ,
Chief Officer.

SAN DIMAS, January 15th, 1871.

Comply with the order of the Superior Government of the State, as conveyed in the communication of the 2d of December ultimo, and to this end examine all persons who are impartial that may be found having a knowledge of the transactions set forth in the proceedings instituted by the persons comprising the Abra Mining Company of this district, and, upon concluding such examination, remit a succinct account of the same for the purposes that it may serve.

So ordered, decreed, and commanded by the judge of 1st instance of this district, and signed with the assistants.

(Signed)

GIL RUIZ,
GUEVARA,
TRINOTED SAINZ.

Deposition of Patricio Camacho.

130 On the sixteenth of the present month and year appeared before this tribunal, of which I have the charge, Patricio Camacho, called to testify in this case, who, after having been sworn to tell the truth as far as his knowledge will permit, in relation to the matters about which he might be interrogated, made answer to the questions propounded to him in the following terms:

1st. State your name, condition in life, occupation, residence, and age.

Answered, that he is called as above stated; is more than seventy years of age; married; a miner by occupation, and resident of this mineral district.

2d. State whether you have any knowledge of the mineral district of Tayoltita, situate to the southwest of this mining district, and forming a part of this jurisdiction? How long ago that you were acquainted with said district, and who were the owners of the Luz, Cristo, Rosario, Ynocentes, and Nuestra Gracia-Guadalupe mines, until they were taken possession of by the American companies, in 1865; state also what profits or losses to the anterior owners, resulted from said mines, and upon what conditions the agents of the American company might have acquired them.

Answered: That he has been acquainted with the mining district of Tayoltita since his infancy; that before the mines which have been named over to him became the property of the Americans, they were owned by D. Juan Castello de Valle, and D. Ygnacio Manjarrez, to whom they were productive of some profits, but to what amount he does not know.

3d. State, if you know, and why you know, that the American company directed their attention principally to the Rosario mine; if they destroyed the *haciendas* for beneficiating, erected at a great cost by their former owners, and if they brought costly machinery to answer in their stead; whether the company dedicated themselves to the working of the mines, and at great cost succeeded in taking out an immense number of cargoes of ore which would not pay; and that for this reason, or because they could not agree with the operatives as to the manner of paying them wholly in goods, they suspended the working of the mine? Whether at this time the superintendent of the American company gave permission to D. Guadalupe Soto to take out whatever of ore he might be able, and that he took out sixty cargoes, which would not pay him for beneficiating it; whether these ores, notwithstanding that they were abandoned, are still to be found as they were left in the hacienda, on account of being nothing but pure tepetate and rock, of no value; whether after this happened the superintendent, Granger, sold everything saleable that there was left in the hacienda, not leaving a tool or thing that he did not take away and dispose of for whatever price was offered?

Answered: That the American company directed their attention to the Rosario mine, on account of what it yielded to its former owners, Castillo & Manjarrez; that he knows from personal observation that said American company rendered the hacienda unserviceable for beneficiating purposes by removing the fixtures, &c., therefrom, with the idea of rendering it better with the machinery they erected, which is still there, and which is of no account, except to the said company, whenever they may again commence to work; that he can testify that these Americans mined a

large quantity of useless ore, which still exists in the patio of the hacienda; that it is true that it was on account of their bad management in the working of the mines, and not being able to get the operatives to work for goods, that they abandoned their mining operations; that it is true that D. Santiago Granger gave permission to D. Guadalupe Soto to take out all the ore he could, and that what he took out did not pay him for beneficiation; that these ores, together with the large quantity already spoken of, are to be found in the hacienda; that D. Santiago Granger sold, as before explained, tools and other things belonging to the hacienda.

4th. State if it is publicly and notoriously known that the said Abra Company, and other companies that have worked mines in this district, have been able to carry on their operations peacefully, and without molestation, either on the part of the populace, or by the military of the State, and that if American citizens are now working the Candelaria and Bolaños mines without being interrupted by any one, and without having any reason to complain of such authorities, but that, on the contrary, if they do not enjoy the same protection as any Mexican enterprise?

Answered: That all contained in the interrogatory is true.

5th. State whether it be true that the Americans have not been favorably looked upon; have been persecuted and threatened with assassination; and whether, on the contrary, they have not been held in high esteem by the people of the country, on account of their unselfishness in advancing their interests by the operations that they are accustomed to carry on among themselves?

Answered: That what has just been inquired of him is true.

6th. State whether it is true that on account of the destruction by the Americans of the hacienda of Tayoltita for beneficiating ores, according to Mexican customs, said Americans have brought on their own ruin, and have rendered invaluable, and almost entirely caused to be abandoned, the said mining district of Tayoltita, for the reason that miners, who otherwise might have taken out somewhat of ore from some of said mines, could not make it pay them when they have to transport the same to this place to be beneficiated in these haciendas?

Answered: That it is true.

Thereupon the proceedings in connection with the taking of this disposition were concluded, to which, after having been read to him, the deponent certified and signed with me, the judge, and the assistant witnesses.

(Signed,)

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PATRICIO CAMACHO.

GIL RUIZ.

GUEVARA.

ESTANISLAU CALDERON.

On the 19th of January, 1871, personally appeared the witness, Bartolo Rodriguez called to testify in this case, who after being sworn to tell the truth, as far as he might know or be interrogated, was questioned and made answer as follows:

1st. State your name, age, condition in life, occupation, and residence.

Answered: That he is called as herein stated; is 41 years of age; married; by occupation a miner, and a resident of this mining district.

2d. State whether you are acquainted with the mineral district of Tayoltita situated four leagues from this head of jurisdiction, to the southwest, and forming a part of said jurisdiction, and also how many years you have known said district; state also who were the owners of the Rosario, Luz, Cristo, Los Ynocentes, and Nuestra Señora de Guadalupe mines, before the same came into the possession of the American companies in 1865: what were the profits or losses which resulted from said mines to such former possessors, and upon what terms said mines were acquired by the agents of the American Company?

132 Answered: That he has known the mineral of Tayoltita for fifteen years; that the owners were D. Juan Castillo and D. Ygnacio Manjarrez, who worked the mines that have been mentioned to him with profit, and that these afterward sold them to the American company.

3d. State whether you know, and why you know, that the American company directed their attention principally to working the Rosario mine; that they destroyed the haciendas for beneficiating ores, built at a large outlay by their former owners, and brought out costly machinery to substitute in their places; that the company engaged in working the mine, and at great cost mined an immense quantity of unprofitable ore; that for this reason and on account of not being able to agree with the operatives as to the manner of paying them wholly in goods, they suspended the working of the mine; that at this time the superintendent of the American company gave permission to D. Guadalupe Soto, to mine all the ore he could, who, in accordance with such permission, took out sixty cargass which did not pay him for beneficiation; that these ores, notwithstanding they were abandoned, are still in existence in the hacienda were they left them, for the reason that they are nothing but *tepetate* or rock non-productive of silver; that the superintendent, D. Santiago Granger, after-

ward sold all of everything saleable that remained in the hacienda, not leaving a tool or thing that he did not dispose of for whatever price was offered him?

Answered: That it is true that the American company gave their attention to the Rosario mine on account of knowing the yield of silver that D. Juan Castillo was obtaining therefrom, and that they destroyed the haciendas that were built in order to replace them with machinery; that from the works which they put into operation in the mine, they took out a large amount of ore, which still remains for the reason that it is of no account; that they suspended their operations because they did not wish to pay, except in goods; that of the ore, which he to this day remains, they gave D. Guadalupe Soto permission to take whatever he might choose to beneficiate, and that he took accordingly several cargoes which did not pay him for beneficiation; that he is certain that the superintendent, D. Santiago Cranger, has sold all that he could of what there was in the hacienda.

4th. State if it is publicly and notoriously known that the Abra, and other American companies that have carried on mining operations in this mineral district, have been enabled to do so peaceably and without having been molested by any demonstrations on the part either of the populace or the military, and if Americans are now working the Candalario and Bolaños mines without being disturbed by any one, and without there being cause of complaint on their part against such authorities, but that if on the contrary they do not enjoy the protection that said authorities are able to give to any like operation carried on by Mexicans?

Answered: That everything is true as contained in the interrogatory.

5th. State if you know that the Americans have not been treated well, or that they have been persecuted or threatened with assassination; but that if, on the contrary they have not been held in high esteem by the people of the country on account of their disinterestedness and the advantageous business sometimes transacted between them?

Answered: That what has been asked him in the interrogatory is true.

6th. State whether it is true that on account of the hacienda for beneficiating 133 ore according to Mexican custom, in Tayoltita, having been destroyed by the Americans, happened their own destruction, and was also the cause of the ruin and almost entire suspension of said mineral district, for the reason that, such being the case, the miners who otherwise might have worked some of the mines do not find it profitable to pay for the transportation of ores to the haciendas of this place?

Answered: That it is true.

Whereupon the proceedings in the matter of this deposition were ended, to which, after being read to him, the deponent affixed his signature with me and the assistant witnesses.

(Signed,)

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GIL RUIZ.
BARTOLO RODRIGUEZ.
GUEVARA.
ESTANISLAO CALDERON.

Deposition of Ramon Aguirre.

On the 26th of January, 1871, personally appeared the witness, Ramon Aguirre, called to testify in this case, who, being sworn to tell the truth in regard to all he might know, as interrogated, made answer to the questions as follows:

1st. State your name, age, condition in life, occupation, and residence?

Answered: That his name is as above stated; is more than 30 years of age; married, and a resident of this place.

2d answered: That it is more than fifteen years since he became acquainted with the mineral district of Tayoltita; and that he knows the owners of the mines that have been named over to him to have been Juan Castillo de Valle and D. Ygnacio Manjarrez, who afterward, with the hacienda and everything connected therewith, sold the same to the Americans; that said mines were productive of profit to said Castillo & Manjarrez, but to what extent he can not say, as he is not informed.

3d answered: That the American company gave the most of their attention to the working of the Rosario mine, because they were aware of the amount of silver extracted therefrom by Messrs. Juan Castillo and D. Ygnacio Manjarrez. And the Americans, thinking to make more silver, set themselves to work to take down the haciendas that had been built for beneficiating purposes, and erected in their stead a large mill; all of the wood work of which haciendas they burnt up; that in carrying on their operations, they mined an immense number of cargoes of ore, at great cost, which ore will not pay; that they suspended operations in the mine because the operatives would not agree to be wholly paid in goods; that at this time the superintendent of the American company gave permission to D. Guadalupe Soto to take all the ore he could of

that which is to be found ; and that he accordingly took out sixty cargas, which would not pay him to beneficiate ; that the superintendent, D. Santiago Granger, has sold all that was salable in the hacienda, and left nothing that he did not sell out for whatever price he was offered.

4th answered : That everything as contained in the interrogatory is true.

5th answered : That the American citizens have never been looked upon unfavorably, nor persecuted, nor threatened with assassination, but that they have been held in high esteem by the people of the country.

6th answered : That the Americans, on account of having destroyed the haciendas for beneficiation, in accordance with Mexican custom, brought ruin upon themselves, and almost succeeded in suspending mining operations entirely in the said mineral district, for the reason that those miners who could otherwise have worked some of the mines could not make it pay to transport their ores to the haciendas in this place ; that the foregoing is the truth as regards the interrogatories which have been propounded to him, which statement was then read to him, when he certified, and I (the judge) signed his name for him, as he was not able to do so, with myself and assistant witnesses.

(Signed,)

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GIL RUIZ.

GUEVARA.

ESTANISLAO CALDERON.

Deposition of Aquilino Calderon.

On the 31st day of the same month and year, personally appeared the witness Aquilino Calderon, called to testify in this case, who, after being sworn according to law to tell the truth in regard to what he might know and be interrogated, made answer to the questions propounded to him as follows : (which questions are the same as those asked the previous witness, Ramon Aguirre,) viz : To the first he answered :

1st. That he is called as has been stated ; is more than 45 years of age, married, by occupation a miner, and a resident of this mineral district.

2d. That he has been acquainted with the mineral district of Tayoltita for several years ; that D. Juan Castillo and Ygnacio Manjarrez were the owners of the mines which have been named over to him, who sold the mines and haciendas to the Americans in the year 1865 ; that when Messrs. Castillo and Manjarrez were working the mines, he was aware that they produced good profits.

3d. That what is contained in this interrogatory is true, and, furthermore, that the silver extracted by the American company was disposed of by themselves, that is to say, by Mr. Elde and others called D. Juan and D. Carlos, these having beneficiated the best ores.

4th. That all the points set forth in this interrogatory are true.

5th. That it is all true.

6th. That the contents of this interrogatory are also true.

7th. That he has seen that they took all the best things or appurtenances, from the hacienda, but does not know what disposition was made of them.

The examination was thereupon concluded, when it was read to him and acknowledged to be true as he had declared, and signed for him by me, the judge, as deponent was unable to write, together with the assistant witnesses.

(Signed,)

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GIL RUIZ.

GUEVARA.

ESTANISLAO CALDERON.

Deposition of Refugio Fonseca.

On the third of February, of the current year, personally appeared the witness, Refugio Fonseca, called to testify in this case, who, after being sworn according to law to tell the truth, in regard to what might be interrogated, and as far as he might be informed, made answers as follows to the same questions that had been propounded to the preceding witness in this cause, viz : He answered to the—

1st. That his name is as above stated ; is more than 55 years of age ; married ; a day-laborer by occupation, and a resident of Tayoltita.

2d. That he has been acquainted with the mineral district of Tayoltita since the year '55 ; that D. Juan Castillo de Valle and D. Ygnacio Manjarrez were the owners of several mines of that district, and that they afterwards sold out to the American company, in the year 1865 ; that said mines produced good profits to their former owners.

3d. That what is contained in this interrogatory is true, and that he knows besides, that the silver which the Americans took out was carried by them to Durango and Mazatlan.

4th. That the points set forth in this interrogatory are true.

5th. That everything in this interrogatory is positively true.

6th. That all that is stated in this interrogatory is true, so much so, that nobody is left in this mineral district of Tayoltita.

The proceedings in the matter of taking this deposition were then concluded, to which, after the same had been read over to him, he made acknowledgment, and signed the same with me, the present judge, and assistant witnesses.

(Signed)

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GIL RUIZ.
REFUGIO FONSECA.
A. GUEVARA.

Deposition of Ygnacio Manjarrez.

On the 19th of the present month and year, personally appeared the witness, Ygnacio Manjarrez, called to testify in this cause, who, after having been sworn to tell the truth, as to what might be inquired of him, and as far as he might be able, made answer to the same questions previously propounded to the preceding witness in this cause, Patricio Camacho, as follows, viz: He answered to the—

1st. That his name is as has been stated; is more than 49 years of age; unmarried; by occupation a miner, and a resident now of the city of Durango.

2d. That he has been acquainted with the mineral district of Tayoltita for fifteen years; that in the year 1854, he and his partner, D. Juan Castillo de Valle, became the owners of the first mentioned of the mines that have been named over to him, and that during all the time that said mines were worked by them they produced good profits up to the year 1865; that they sold the mines and haciendas to an American company called the "Abra."

3d. That all contained in this interrogatory is true, with the addition that the silver extracted by said company was disposed of by themselves, that is to say, by Mr. Elde D. Carlos Exall, D. Juan N. & D. N. N.; that these said Americans benefited the best of the ores, and, as he has said, made use of the silver, and that a large quantity of invaluable tepetate remains in the patio of the hacienda.

4th. That all the statements in this interrogatory are true.

5th. That he knows it to be true.

6th. That it is also true.

136 The proceedings in relation to the interrogatories referred to in the beginning of this examination having been concluded, the following is annexed thereto, in continuation:

7th. State whether it is true that D. Santiago Granger was offered five thousand dollars by two Americans, with which to buy witnesses to say that the Tayoltita enterprise had been abandoned on account of a strike or riot, (*motin*), and that no one could be found who would testify to such statement?

Answered: That he has so heard it said, but does not recollect by whom.

Thereupon this examination was concluded, to which, after it had been read to him, he made acknowledgment, and signed with me, the judge, and the assistant witnesses.

(Signed)

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GIL RUIZ.
YGNACIO MANJARREZ.
A. GUEVARA.
ESTANISLAO CALDERON.

Deposition of Santiago Granger.

SAN DIMAS, August 23d, 1871.

On the date next above written, personally appeared in this court, over which I hold jurisdiction, the English citizen, D. Santiago Granger, summoned as a witness to testify in this case, who, after being sworn to tell the truth in regard to what he might be questioned, and as far as he might be able, made answer to the interrogatories as follows, viz:

He answered to the—

1st. That his name is as has been stated; that he is 42 years of age; unmarried; a merchant; and resident of this mineral district.

2d. State whether you are familiar with the mineral district of Tayoltita, situated four leagues to the southwest of this center of jurisdiction, and forming a part thereof; how many years you have thus known the said place, and who, at that time, were

the owners of the Rosario, Luz, Cristo, Ynocentes, and Nuestra Sra de Guadalupe mines up to that in which they became the possessions of American companies, in the year 1865; what were the profits or losses that resulted to the former owners of said mines, and upon what terms they might have been acquired by the agents of the American company?

Answered. That he has been acquainted with the mineral district of Tayoltita for about five years; that according to the information which he possesses D. Juan Castillo de Valle and D. Ygnacio Manjarrez were the owners of the mines which have been named over to him before they came into the possession of the American companies; that he does not know what profits or losses may have resulted from said mines to Messrs. Castillo and Manjarrez, but that he knows something in regard to those of which the American company was the recipient.

On being asked to state whether he knew, and why he knew that the American company directed their principal attention to the working of the Rosario mine; whether they destroyed the *haciendas* for beneficiating ores, built at great expense by the anterior owners, and brought out costly machinery to put in their places; if

the company went to work in the mine, and obtained, at great cost, an immense number of *cargas* of worthless ore; if, on this account, and for the reason that the workmen would not consent to be paid wholly in goods, they suspended the working of the mines; if, at this juncture, the superintendent of the American company granted permission to D. Guadalupe Soto to take out all the ore he could, and that he, accordingly, did take out sixty *cargas*, which would not yield him enough to pay for its beneficiation; if said ore, besides being abandoned, remains still in the *haciendas* as they left it, on account of its being nothing but pure *tepetate* or worthless rock; if this superintendent, D. Santiago Granger, afterward sold everything saleable which remained in this *hacienda*?

He answered and said: That he is not aware that the company directed their attention principally to the working of the Rosario mine, but that he does know that this mine was worked more than the others; that with respect to the destruction of *haciendas* he knows nothing; that the machinery brought by the company remains in the *hacienda*; that as to the ores, it is true they still remain, and that, in his judgment, they are good for nothing; that in connection with what has been inquired of him concerning the operations, he knows nothing, nor does he know whether permission was given to D. Guadalupe Soto to take out any ores; that in regard to what he has sold, it is true that he did sell some things, with the object of furnishing himself with means.

Being interrogated as to whether it is public and notorious that the American company of the "Abra," as well as the other companies that have worked mines in this mineral district, have carried on their operations without having been troubled by any disturbances whatever, on the part of the populace or military, and whether American citizens are now working the Candalario and Bolaños mines without being interrupted by any one in their labors, and without having any reason to complain of said authorities, and whether, on the contrary, if they do not have all the protection that these authorities can give them, the same as any other enterprises under Mexican management?

He answered and said: That in regard to what is contained in this interrogatory, he knows that the principal civil authority, D. Marcos Mora, when he occupied that position in this district, molested the Abra Company by meddling with them in regard to the manner of working, which they had adopted, and that when D. Nicanor Perez was judge in Tayoltita, he arrested, without having any reason, the superintendent, Mr. Exall; that in 1865, according to a letter which he saw from the military commander, Jesus Valdespino, this person asked \$1,200 from the Abra Company, but that he does not know whether the company paid it or not; that as far as the other authorities and people of the district are concerned, he is not aware of anything they ever did against the American companies.

Upon being asked whether he knows that American citizens in the district of San Dimas have not been looked on unfavorably, or that they have been persecuted or threatened with assassination, but whether, on the contrary, they have not been highly esteemed by the people of the country on account of their unselfishness in carrying forward the profitable enterprises that they are in the habit of undertaking among themselves?

He answered and said: That he knows the same to be true.

On being asked if he knew that Santiago Petiller shot Teodoso Soto at a ball, in San Dimas; he answered that he does know that he shot the said American.

On being questioned whether he knew what the American company did with the Luz, Cristo, Ynocentes, and Guadalupe mines, he answered that they began some works in the Luz and Cristo mines, but does not know whether they did anything in the Ynocentes mine or not; that the Guadalupe mine belongs to another company; and that he is ignorant as to what has been done in it.

Thereupon the examination was concluded, when the declaration was read to him,

acknowledged to be the same that he had rendered, and to be the truth; to which he signed his name in ratification thereof, with me, the judge, and the assistant witnesses.

(Signed,)

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CIPRIANO QUIROZ DE LA V.
SANTIAGO GRANGER.
ESTANISLAO CALDERON.
CAMILO CALDERON.

Deposition of Maria Cecilia Jimenez, called to testify in this case, who, after having been sworn to tell the truth in regard to what should be asked of her, as far as she might be able, made answer to the interrogatories, as follows:

1st. State your name, age, condition in life, and residence?

Answered: That her name is has been stated; is 32 years of age; is married; and a resident of this mineral district.

2d. State if it is true that two Americans offered D. Santiago Granger \$5,000 with which to buy witnesses who would say that these operations in Tayoltita had been abandoned on account of a disturbance; and that no one could be found to give such testimony?

Answered: That what she knows is that an American, called General, and whose name is Alonzo W. Adams, who lately came in company with Mr. Dana, was the person who, solely of his own account, summoned some operatives who were living in Tayoltita, and who had been employed in his works, which operatives, having made their appearance, gave their testimony, the said general writing, and offered to pay them well for the loss of their time, whatever it might be. This was done without witnesses being present, or authority of any kind; that deponent afterward came to this mineral district, and, being in the hacienda of the Candalarío Company, saw that the said general had quite an angry altercation with D. Santiago Granger, and an American named Rafael Martin, which arose on account that these gentlemen did not approve of the declarations that he had taken upon himself to receive on his own account, and besides, because, in their opinion they were false, it being inferred that the said general wished to take advantage of the ignorance of the deponents, who could neither read nor write; that the result of this altercation was that D. Rafael Martin drove the said general out of his hacienda, saying to him that he did not wish to run the risk of any compromise to the company or to Mexico that would be likely to arise from his unjust pretensions in taking it upon himself to alone receive the declarations of the said operatives.

With this the examination was concluded, to which, after it had been read to her, she made acknowledgement, and said that she had nothing to add thereto or take therefrom.

Signed for her, at her request, by José Antonio Cordova, with me, the judge, and the assistant witnesses.

(Signed,)

CIPRIANO QUIROZ DE LA V.
J. ANTONIO CORDOVA.

139

SAN DIMAS, August 24th, 1871.

These proceedings in reference to the Abra mine having now been concluded, make return of the same in 15 fojas utiles to the Supreme Government of the State.

(Signed,)

CIPRIANO QUIROZ DE LA V.
TIMOTIO SAINZ.

This is a copy.

(Signed,)

JUAN DE DIOS ARIAS, Chief Clerk.

MEXICO, November 8th, 1872.

Examination in San Dimas of witnesses for the defense, on the 24th of September, 1871, before Cipriano de la V., Judge of the Court of First Instance, of the District of San Dimas.

Bartolo Rodriguez being duly sworn, deposes and says:

Question 1. State your name, age, occupation, and residence, and whether you are married or single?

Says that his name is as above stated; that he is forty-one years of age; is married; a miner by occupation, and a resident of this place.

2d. State if you know anything about the mining district of Tayoltita, and for how long, and to whom belonged the "Abra," the "Rosario," the "Luz," the "Cristo," the "Ynocentes," and "Nuestra Señora de Guadalupe" mines?

Says that he has been familiar with the mining town of Tayoltita a little more than eighteen years; that the mines above mentioned, with the exception of "La Abra," be-

longed to D. Juan Castillo de Valle and D. Ygnacio Manjarrez; that afterwards these gentlemen sold mines to the Americans; who sold the "Guadalupe" mine and retained the "Abra," but does not know in what manner they obtained it.

3d. State whether you know if the "Abra" mine, together with the haciendas of "San Nicolas" and "Guadalupe," as also the "Arrayon" and "Talpa" mines belonged to another American company, with those of San Felipe and San Antonio?

Says that he does not know in regard to the San Bartolo mine, for he has never heard of it before, but that the others spoken of belonged, latterly, to the Americans.

In answer to the question as to the richness of the mines or about what they yielded of silver, he said they are very poor.

To the question as to whether all the said mines latterly belonging to the Americans, were capable of producing a million dollars in silver, annually, he answered, that not all the rock and metal they ever mined from them, even were it rich in silver, would not produce the exaggerated sum of a million dollars annually, much less the heap of worthless rock alluded to as being in the hacienda. He also said that not all the ore in the heart of the mountains would be sufficient to yield that amount, for the Americans who have come here are incapable of mining it, except at great expense, and they would be more likely to lose than gain in the experiment. Also that the Americans abandoned their enterprise simply because they wished to do so, as deponent is not aware that they were molested or driven to make such abandonment, either on account of any Mexican citizen or Mexican authority; that

140 instead of making improvements, the said Americans destroyed the hacienda which Castillo and Manjarrez had left in good repair; that the working of the mines was not conducted as it should have been, as is shown by the disorderly arrangement of the said pile of ore in the patio of the hacienda; that it is true the Americans had machinery, but that Mr. Granger and Mr. Klin, who were left in charge of the works, have sold a large lot of tools and other things, such as quicksilver, salt, &c., and some groceries or goods, all of which was sold very cheap, saying that they were obliged to do so to obtain the means to live as they had not been paid their wages; that at the last the said Granger ordered the iron window gratings, counter, and shelves to be taken out of the store at the hacienda in Tayoltita, and removed, together with other things to San Dimas, and that a part of those articles, as is publicly known, he had deposited in a house that he had bought; that in consequence of this demolition of the hacienda of Tayoltita, formerly belonging to Castillo, by the Americans, the town of Tayoltita has been almost entirely abandoned, for to those who would like to carry on mining it would not be profitable to remove their ores to San Dimas for beneficiation; that it is probably a fact that the machinery which the Americans left at the hacienda is incomplete, or rather that which they erected there.

In answer to the question whether he ever knew of any individuals, or Mexican authorities of the district of San Dimas, molesting or threatening to assassinate any of the Americans who have come to Tayoltita to engage in mining, he said that not only did nobody ever molest or interfere with them, but that, on the contrary, he knows that the authorities of this district have always protected them; and as for the people of the town, they have sought employment of the Americans at the mines, notwithstanding the fact that these have always looked down in scorn upon the Mexicans employed under them, imposed tasks upon them not allowed by law, and have refused to allow a Mexican miner the same pay for the same work as they did to American miners; that it is a well-known fact, that these Americans have paid to their servants and employees, wages that they did not deserve or earn, when such were of their own nationality, which is the cause of a part of the loss of which they complain.

In answer to the question if he knew about how much ore the American company left in the *patios* of the mines, its quality, and if they were robbed of it, and by whom, he said that they left a small lot of *tepetate* in the *patio* of the "Luz" mine, and a quantity of common rock in that of the "Cristo" mine; that he does not know how many *cargas* there may have been, but believes that it is still there; that he is not aware that the Americans have been robbed either of ore or of other things, and that the foregoing is all he knows in regard to the matter.

At the same time and place, and before the same judge, Refugio Fonseca was sworn, and deposed as follows:

In answer to the questions propounded to him, he said: That he is called as above stated, married, a miner by occupation, and a resident of this place; that he is informed in regard to mining operations in Tayoltita, and has been familiar with the mines there for seventeen years; that when he knew of the "Abra" mine, it had no owner; that the "Rosario" belonged to the Messrs. Castillo & Manjarrez, the

141 "Luz" being comprehended with the "Rosario;" that the "Cristo" was de-

nounced by Castillo, the "Patricio" belonged to Patricio Camacho, and Nuestra Señora de Guadalupe to Juan Castillo also; that D. Juan Castillo afterwards sold the "Luz" and "Rosario" mines to the Americans, as also the "Cristo" in like manner, on account of its being connected with the others; that he also sold them the "Inocentes," by power of attorney from Camacho, and also transferred to them the "Guadalupe," as he owned a part of it, but did not sell it to them. To the question as to whether he knows that the "Abra," the haciendas of San Nicolas and Guadalupe, together with the Talpa and Arrayon mines, belonged to another American company at the same time as those of San Felipe, San Antonio, and San Bartolo. He said that in regard to the mines alluded to, the "Abra" was the only one that had no owner, until it became the property of this last company; that he does not know the San Bartolo mine, and that the haciendas belong to this company; that the mines referred to yield very poorly, and produce little ore, as is proven by the metal left in the patio of the hacienda; that if all the tepetate were taken out of the mines and beneficiated, it would not produce a million dollars annually; that the Americans abandoned their enterprise on their own account, and not from any interference on the part of the authorities of Mexico; that he does not know how much ore there may be, ready for beneficiation in the said mines and haciendas, but believes there is some; that the said rock will not produce any silver, because it is pure *tepetate*, and therefore contains none; that only from the ore mined by the American, Carlos Mudo, was any silver ever extracted, because it was the best that the mines could produce; that the said American took the silver to Durango, and paid a gambling debt with it which he had contracted, and when he returned to Tayoltita he was obliged to sell some things in order to obtain the means to go to Mazatlan; that he has never heard that the Americans have been robbed of anything; that he does not know whether they were robbed of mules or not, and that the foregoing is all he knows in regard to the matter.

Deposition of Andres Serrano, taken at the same place, and before the same judge of the court of 1st instance, on the 25th of September, 1871.

After having been sworn he said: that his name is as above stated; is sixty years of age; married; miner by occupation; and a resident of this place; that he has been familiar with Tayoltita for several years, and that the mines spoken of to him, formerly belonged to D. Juan Castillo de Valle, and D. Ygnacio Manjarrez, and after to the Americans; that the haciendas of San Nicolas and Guadalupe, and also the Talpa, Arrayon, San Felipe, and San Antonio mines, he has understood, belong to the Americans, but that he does not know which the San Bartolo mine is; that these mines have produced very little ore, although the yield of silver in the ore has been regular; that these mines have been very unproductive of good ores, is proven by the fact of the same having been left unworked by the Americans, it being nothing more than pure *tepetate*; that if it were the case that the *tepetates* produced silver, notwithstanding all that may be said by these Americans, it would have been impossible to have realized a million dollars annually from them; that the Americans abandoned their mines for the reason that they would not pay, and not from any prejudicial interference on the part of the authorities in regard to their property; that they
 142 erected some houses to live in, which on account of having been abandoned, have fallen in, and become dilapidated, as is also the case with the machinery left by them; that of the Americans who have had charge of the enterprise in question, *Carlos Mudo* was the only one who beneficiated some of the best ores, and that the silver he extracted therefrom, as witness has understood, he took to Durango, and gambled it away; that Santiago Granger sold all the groceries and tools he could, and at very low prices, and at the last pulled the buildings at the hacienda to pieces, by taking away the doors and iron window gratings, which he used in fixing up a house that he owned in San Dimas; that, in consequence of these acts, the mineral of Tayoltita has been completely abandoned; and that the foregoing is all he has to say.

The judge before whom the foregoing witness was examined, Cipriano Quirez de la V., signed the name of deponent for him, he being unable to write, in the presence of the assistant witnesses.

Deposition of Benigno Galvan, taken on the same day and at the same place.

After having been sworn, deponent said: That his name is as above stated; married; of age; a miner by occupation, and a resident of this place; that he has been familiar with the mining town of Tayoltita for a long time; that he was aware that the mines which have been named over to him belonged to D. Juan Castillo, and D. Ygnacio Manjarrez, formerly, and that the same afterward became, as he saw, the

property of these Americans, but that he does not know in what manner they were transferred to them; that this company worked some of said mines, and others not, and that in his conception they did not know of their existence—or, rather, the location of them; that he knows that the haciendas of San Nicolas, Guadalupe, Talpa, Arroyon, San Felipe, and San Antonio belong to the company, and that he does not know which the San Bartolo mine is; that the said mines have never yielded large quantities of ore, and that what they have produced has never been rich, but only passably so, as is proven by the fact of the same having been left by the company on account that it would not pay, it being nearly all pure *tepetate*; that said mines could never yield a million dollars annually, for the reason before stated, to the Americans, as the kind of ore that they were in the habit of mining was worthless, as can be seen by that which they left; that the Mexican authorities were not the cause of the Americans abandoning their property, but that this abandonment was effected by the parties themselves, who were left in charge of the same; that the improvements made by said Americans, consisted in destroying the hacienda, formerly owned by Castillo and Manjarrez, in putting up the machinery brought by them, and in building some houses in which to live, and which are now in ruins on account of such abandonment; that, in addition to this, the Americans inaugurated the system of paying in *cartons*, or promissory paper, and that they also paid the Mexicans a very low rate of wages, as compared with that allowed to their American employees; that Santiago Granger sold tools, salt, quicksilver, &c., belonging to the company, at very low prices, alleging that they had not been paid their wages; that said Granger also ordered doors, counter, shelves, and iron window gratings to be removed to San Dimas, to fit up a store for himself; that he does not know what amount of ore was left by the Americans at the mines and haciendas, but that they left some *tepetate*, which is good for nothing; that it is a lie that these Americans abandoned their said mines by
 143 reason of the interference of the authorities, and that the *real* reason was because they had no means with which to continue their workings; and that the foregoing is all he has to say.

The above was signed for deponent, as he could not write. (Signed) Cipriano Quiroz de la V., in the presence of the assistant witnesses

Deposition of Petronilo Santos.

Following the above, the deposition of Petronilo Santos was taken, who, after having sworn, deposed and said:

That his name is as above stated; married; of age; miner by occupation, and a resident of this place; that, in answer to the question as to how long he has been familiar with the mineral of Tayoltita, and in whose hands he knew the Abra, Rosario, Luz, Cristo, Ynocentes, and Nuestra Señora de Guadalupe, he said, that he has known said mineral from twenty-three to twenty-four years; that he knew the mines above enumerated to have belonged to D. Juan Castillo and D. Ygnacio Manjarrez, with the exception of the Abra; that said mines subsequently became the property of Americans; that, as he is informed, they bought them; that, in answer to the question as to whether the haciendas of San Nicolas and Guadalupe, together with the Arroyon, Talpa, San Felipe, and San Antonio mines belonged to the company, he knows that the haciendas named did belong to the company, but that as to the mines named, he cannot say; that he does not know the San Bartolo mine; that the ore of said mines, assorted, has been rich, but that they never produced but very little in quantity; that according to what he has seen, it would be very improbable that the said mines would yield a *third part of the million dollars, which the Americans claim for them, annually*; that during the time he lived in Tayoltita he never saw or heard that the authorities had interfered with or molested these Americans, or that they abandoned their mines, haciendas, and other property on account of such interference; that these Americans *made no improvements on said property*; that he does not know why they abandoned their mines and haciendas, as he was not living in this place at the time they left; that it is not true that the authorities took possession of the machinery, goods, &c., of the company, but that, on the contrary, he knows that they themselves sold some of the things—such as clothes, or cloths, tools, and groceries; that not to his knowledge did the authorities ever threaten any one of said Americans with assassination; that he does not know what amount of ore they may have left in the mines and haciendas; that there is no ore in the mines which was left there by the Americans, but that there is a heap of *tepetate*, which was left in the hacienda, for ore it cannot be called; and that he knows of nothing more in connection with the matter.

Signed for deponent, as he could not write, by the Judge Cipriano Quiroz de la V., in the presence of the assistant witnesses.

Deposition of Bernadino Aguirre, taken in San Dimas, September 26th, 1871, who, after having been sworn, deposed and said:

That his name is as above stated; of age; a miner by occupation, and a resident of this place; that the mines spoken of belonged to the company; that they did not work the Abra mine in a regular or scientific manner; that the ore was left 144 in the hacienda because it was too poor to pay for beneficiating it, and not on account of any interference on the part of the authorities or inhabitants of the district; that, on the contrary, the company had all the protection they desired during the war of resistance to the so-called empire; that they had no mules on their works, since on various occasions they were obliged to travel on foot, or hire mules, in order to make their journeys to and from Durango and Mazatlan; that they beneficiated the best of the ore they mined, and made use of the silver extracted therefrom; that they have never been robbed by the Mexicans, as they allege to have been; that of the ore they mined a part still remains in the patio of the hacienda; that the machinery is still in the same place where they erected it; that they themselves disposed of a quantity of their effects, such as salt, quicksilver, and tools; that Granger sold them, and carried away the doors and window gratings; that they made no improvements, and that as to a million dollars annually, the said mines could never produce that amount, as they are not productive of large quantities of ore, although it may be of ordinary or payable richness; that this applies to ores, and not to tepetates, which latter is what the company left, and which may still be seen where they deposited it, and that he has nothing more to say.

Signed for deponent by the judge, on account of not being able to write. (Signed) Cipriano Quiroz de la V., in the presence of assistant witnesses.

Deposition of Leandro Molina, taken on the same day, who, after being sworn, deposed and said:

That his name is as above stated; is 27 years old; unmarried, and a resident of this mining district, and a miner by occupation; that he has been familiar with several mines in Tayoltita, for several years, but cannot say to whom they belong; that the haciendas of San Nicolas and Guadalupe, and also the mines of San Felipe and San Antonio, belong to the American company, but that he has never heard of the San Partolo mine until to-day; that the mines with which he is acquainted are those which have been worked; that in these the ore is not very abundant, although its quality is middling; that the veins are very narrow; that is to say, the part of them which produces ore, and not with the tepetates, an abundance of which may be mined from any of the mountains; that these gentlemen could never have extracted a million of dollars annually; that no silver was ever produced from the tepetates; that the company abandoned the ore which they had mined because it would not pay for beneficiating, and not on account of any interference on the part of the Mexican authorities; that the machinery is still in existence where they left it; that he never knew of the company having any mules, but knows that when they went to Durango, or Mazatlan, they had to hire mules; that they have not the slightest cause to complain of having been injured by the Mexicans; that it is true they brought some provisions and other things with them, but that the greater part of such things were sold by they themselves, that is to say, salt, quicksilver, tools, &c.; that these gentlemen have never been molested in the country, but have enjoyed all the protection they desired from the authorities, for when the war with the French was going on, no Mexican had a safe passport to go and come, while these Americans did have such pass, both to Mazatlan and Durango; that finally, Santiago Granger, the superintendent of the Abra company, sold several things, and destroyed, in addition, the buildings constituting the hacienda, by taking away the doors and iron gratings, which he removed to a house he had bought in San Dimas; that the amount 145 claimed by these gentlemen is unjust, for the superintendents whom they have over their works have not been capable to have charge of haciendas and mines; and that the above is all he knows about the matter.

Signed in the presence of the judge and assistant witnesses.

(Signed,)

CIPRIANO QUIROZ DE LA V., Judge.

Deposition of Pio Quinto Nuez, taken at San Dimas, on the 26th of September, 1871, before Cipriano Quiroz de la V., Judge of 1st instance.

Being duly sworn, the deponent said: That his name is as above stated; of age; a widower; a miner by occupation, and a resident of this place; that the mines, before alluded to, are the property of the company, they having acquired them by purchase,

or transfer, from Castillo and Manjarrez; that said mines have never produced great quantities of ore; on the contrary, very little, although it is ordinarily rich in silver, but not extraordinarily so, as these claimants allege; that it is true, that some Americans came to work the said mines, but that no one of them understood such business; that the engineers who came with the machinery put up the same, and that it still exists in the same place; that this company did not buy any mules during the time they carried on their mining operations, but paid the hire of those they had in use; that he cannot say whether they spent as much money as they say they did, in buying said property and carrying on their mining business; that it is incredible that they could have taken out, as they claim, a million dollars annually in silver, because the ores which they mined were of no account whatever, and which are to be found still in the same place where they left them; that it is not true that these Americans abandoned their enterprise on account of the acts of Mexican officials, and that it is equally false that either the civil or military authorities, or the inhabitants of the district, made any prejudicial opposition to them, as they have alleged they did; that the deponent has never seen or heard it said, that any superintendent was imprisoned, and much less does he believe that such superintendent complained to the civil or military authorities in Durango and Sinaloa, and was denied the protection thus solicited; that he has never known that the authorities have countenanced acts of violence against the interests and employees of the company; that it is false that the authorities, as the company allege, took possession of their mules and provisions, and appropriated the same to their own use; that the company never had any ore taken from them, as they affirm, since that which they took out of their mines still exists, as before stated; nor have their employees ever been threatened by any Mexican with intention to rob them; that the company has no reason to complain, in any way, against Mexico, because they did not abandon their operations on account of the Mexicans, but because they themselves did not understand how to carry on the working of the mines, as is proven by the unproductive manner in which they worked; that this is the cause of their abandonment, and not, as they say, from any want of security; that the reparation, which the company claims of Mexico, is not founded in justice, because the allegations upon which it is based are false; that what the company did in Tayoltita, was to put up some machinery and houses, the most of which have fallen down and become dilapidated from having been abandoned; and that as to the machinery, it still exists; that under no circumstances, could the above-named

146 appurtenances have been worth the sum claimed by the company to have been spent in their erection; that as to the statement of the company, that they could have produced a million dollars annually from their mines, it is not true, for they could not take out that amount of silver in five years, much less in one; that neither the mines, nor the machinery of the company, are ruined or lost, because they are still in existence, and that he has nothing more to say.

(Signed.) By the judge, Cipriano Quiroz de la V., deponent not being able to write, in the presence of the assistant witnesses.

Deposition of Julian Romero, taken on the same day, and in the same place, who, after having been sworn, deposed and said:

That his name is as above stated; of age; married; a pack-mule driver by occupation, and a resident of this place; that in regard to the mines made mention of in the claim of the Abra Mining Company, he knows that this company bought the same, or that they were transferred to them by Dn. Juan Castillo de Valle and Dn. Ygnacio Manjarrez; that these mines have always yielded a small quantity of ore, although its quality has been ordinary, but not extraordinary, as claimants allege; that when the company commenced to work the said mines, some Americans came to work, but of these none understood their business as miners; that mechanics also came and put up the machinery, which still exists; that during all the time the deponent was in Tayoltita he never knew that the said company bought any mules to use in their works; that he does not know whether the statement of the claimants be true or not in regard to the sum which they claim to have spent in the purchase and working of their mines; that he could not judge whether the company took out a million dollars a year from their mines or not, but that he does know that the rock which they took out, and which still exists where they left it, was nothing but *tepetate*; that it is not true that the company abandoned their business on account of the unlawful acts of Mexican officials, as they allege they did; that the civil and military authorities have never had a disposition to oppose the Americans as stated by claimants; that he has never heard it said that any superintendent was imprisoned, and much less that the authorities of Durango and Sinaloa denied him the protection he asked for; that he never knew that the authorities took any lot of mules and provisions, and applied them to their own use; that the company has had none taken from them as they af-

firm, since that of all they took out all is still in existence, nor have their employees ever been threatened by any Mexican; that the company have no cause to complain that it was on account of the Mexicans that they abandoned their operations, but rather that it was for the reason that those whom they sent to take charge of their business were incompetent to do so; that the damages and injuries claimed by this company against Mexico are very illegal; that the works erected by this company in Tayoltita consisted in putting up machinery, and some rustic dwellings, and which were not well built, and have all fallen down, while the machinery still remains; that with reference to the product of a million dollars annually, as the company claim their mines would have yielded, it is impossible to believe that such would have been the case by working them for a longer time, much less for a year; that the mines and machinery which the company say are ruined, are still in existence in Tayoltita; that the only building that is destroyed is that outside, which after its abandonment, was ruined by the rains, and D. Santiago Granger, the last person who had charge of the works, took away the doors and iron window gratings, and sold some of the effects and tools, for which the company cannot complain of the Mexicans, but rather of their own employees whom they have had in charge of their business, and that the above is the truth and all he has to say.

Signed for him by the judge. Cipriano Quiroz de la V., [the deponent not being able to write,] with the assistant witnesses.

Deposition of the English citizen, Santiago Granger, superintendent of the Abra Mining Company, in Tayoltita, taken in San Dimas, October 6th, 1871, before Cipriano Quiroz de la V., judge of the court of 1st instance, in said place.

After being sworn, the deponent answered and said: That his name is as above stated; of age; unmarried; a native of England, and resident of this place; that the mines alluded to in this claim belong to this company, but that during the time that he was in charge of the works he did not see their names; that all these mines, as well as the haciendas, were known under the name of the Abra Enterprise, or Works; that formerly these mines were much talked about, but that they now are good for nothing; that in regard to the company having owned many mules, that one year before, when deponent had charge of the business, he can only say that the company had about fifteen mules, that he saw, more or less; that he supposes it to be true that the company has spent \$303,000 in the purchase of their mines and machinery, and in working the same; that the greater part of the ore taken out by the company is still in the patio of the hacienda, and that it is good for nothing; that some of the ore was good, but that this was beneficiated; that he is not aware that the company abandoned their works on account of the illegal acts of the Mexican authorities; that he does not know that the civil and military authorities, or the inhabitants of the town, had any ill feeling against the Americans because they believed the latter to be working the mines, thinking that the United States Government would take possession of the States of Durango and Sinaloa; that he knows the superintendent to have been imprisoned and fined, without informing him of the crime for which he was held, and without giving him a trial; that he, the superintendent, did not wish people to enter the warehouses (*bodegas*) of the company without permission from him, was the cause of the imprisonment of said superintendent, the judge having entered them before, and afterwards the said judge ordered the superintendent to be called, when he imprisoned him in a small house, at a place called the "Raventon," situated in the same district of Tayoltita; that, in answer to the question as to whether he knows that the superintendent asked protection or not from the civil and military authorities of Durango and Sinaloa, and that these denied it to him, he said that he is aware that he presented himself before the civil authorities of Durango, but does not know what answer he might have received; that he does not know what acts of violence were committed against the employees of the company, or against their interests; that in answer to the question as to whether he knows that the Mexicans took some lots of mules loaded with provisions, and appropriated the same to their own use, he responded that he heard it said that during the revolution between the French and Mexicans, some mules, loaded, had been lost, but that this was before deponent came to Tayoltita; that in answer to the question as to whether he knows that the Mexicans threatened the Americans who watched over the company's ore, because they would not let them steal it, he said that he knows nothing; that in answer to the question whether or not the mines and buildings erected by the company were likely to have cost a million dollars, he said that they probably cost \$303,000, counting all the labor expended on them, as they themselves say in their memorial; that in answer to the question as to whether the mines, haciendas, machinery and

buildings, are still in good condition, he answered that the mines remain in the same state that they were left by the company, that the haciendas and machinery are suffering for the want of being looked after, and that the buildings are injured for the lack of the parts of them which the deponent removed, as stated in the accompanying document; that in answer to the question as to whether this enterprise had produced a million dollars annually, he said it did not yield a profit of a *cuartilla*, (about three cents;) that, on the contrary, it was a losing operation; that in answer to the questions as to whether the company had lost their mines, improvements, and machinery, he said that he has already stated the condition in which they now exist; that what he has said is the truth. (Signed) Cipriano Quiroz de la V., and the assistant witnesses.

Deposition of N. A. Sloan, taken in San Dimas, on the 9th of October, 1871, before the judge of first instance, Cipriano Quiroz de la V.

The witness, after having been sworn, deposed and said:

That his name is as before stated; of age; a native of the United States; and a resident of this mining district; that in answer to the question as to whether he knows anything about the mines known as the Abra Enterprise, or works, he said that the mines and haciendas that have been named over to him belong to this company; that in response to the interrogatory as to whether the company brought out miners, mechanics, and brought large numbers of mules and loaded them with provisions, and whether the machinery was of the best class, he answered:

That it is true that they brought with them mechanics, and set up machinery, but that he only saw from ten to twelve mules, and that the machinery was good, but not of the best class; that in response to the question, as to whether this company spent, in the purchase and working of their property, the sum of \$303,000, and whether, from the result of this expenditure, they were taking out a million dollars annually profit, he answered, that at the time he was a clerk for the company, he saw, according to the statement of the superintendent, that they had expended \$303,000, and had taken out a little less than \$6,000, in silver; that in answer to the question as to whether the company had been the subjects of any ill-feeling from the civil and military authorities, or the people of the district, he said that he did not know that such had been the case; that he does not know that the American employees were ever threatened by the Mexicans; that in answer to the question as to whether he knew that the superintendent had been imprisoned without knowing for what, he said that he knew he had been a prisoner in the jail, and that he understood that his imprisonment was because, or, rather, according to what he saw of the affair, it was because the judge went into the hacienda to speak to one of the peons who was at

149 work there, and the superintendent thereupon put him out, from which it resulted that the said judge immediately went to his house and ordered the superintendent to be called before him, when he sent him to prison; that he is not aware that the authorities took possession of the lots of provisions; that he is likewise not aware that they took a large amount of ore from the company; that in answer to the question as to whether he knew that the liberal forces killed one of this company's superintendents and embargoed the works over which he had charge, he said, that he is aware that they killed one of the employees, but that it happened in the State of Sinaloa, and that he does not know who it was; that the company erected a building in the suburbs, but that this is falling into decay: that in answer to the question as to whether he knows that this company was taking out a million dollars a year, he said that he did not; that he knows the company to have ore on hand, and that although he cannot state with any very great degree of certainty how much it might have been, he would judge the amount to be about five hundred cargass; that in answer as to whether he knew where this ore is and how much it would pay, he said, that it is in the *patio* of the hacienda, and that it will pay about five dollars per ton; that there is no ore in the mines belonging to this company; that the machinery is still in existence, but that it has been some time since he has seen the buildings and machinery, but has been told that they are in a dilapidated condition; that D. Santiago Granger took away the doors and iron gratings, but that he did not see him do it, and that the foregoing is the truth.

Signed with the Judge. (Signed) Cipriano Quiroz de la V., and the assistant witnesses.

Deposition of Ygnacio Manjarrez, taken on the same day, and before the aforesaid judge, and at same place.

After being sworn, deponent answered and said: That his name is as above stated; of lawful age; unmarried; a miner by occupation, and a resident of this place; that the mines and haciendas, mentioned in claimants' memorial, were known under

the name of "La Abra Mines," and belonged to this company; that said mines may have been rich formerly, but not in hands of this company, because their workings did not show such to be the fact; that it is true that the mechanics spoken of came and erected the machinery, and were paid high wages; so much so, that when money came from Mazatlan to pay off, they took it all; that the deponent never saw but twenty-odd mules, and these were pack and saddle mules; that as the enterprise failed, the machinery was abandoned, and still remains so; but that he cannot say whether it was of the best kind or not; that in regard to the amount which they may have spent in making the purchase, and working the aforesaid property, he cannot say anything, because he does not know; that the ores they took out they beneficiated the best of it, and the remainder is still in the *patio* of the hacienda, for which reason it is false that they produced a million dollars annually; that the Americans abandoned their works, because they could not make them produce silver, and not because the Mexicans run them off, for they enjoyed all necessary security, in a higher degree than the Mexicans themselves; that in regard to the hostility which the claimants allege was manifested by the Mexicans toward them, it is false, and I repeat that they left on account of the business in which they had engaged; that during all the time the deponent was informed as to the enterprise of the Americans, he did not see

150 that they were molested by the authorities, and much less by the people of the town; that during the period the deponent was in Tayoltita, he did not see that they confined any superintendent in prison; that as to what the claimants say about the authorities taking possession of the lots of mules, loaded with provisions, and appropriating them to their own use, it is false, since this was never seen during the whole time this company was working; that as regards what they say about the killing of one of the superintendents of the company, and the embargo of all he had under his charge, it is likewise false, as is also all that they say, nothing but a pure falsehood; but as to what the claimants allege in their memorial, it is wholly a lie, since the only enemy they had in Mexico is found in that they could not succeed in getting silver out of the *tepetates*, which this company took out of the mines; that the mines, haciendas, and machinery, which the claimants say are ruined, are not so, inasmuch as all of said property is to be found where they left it, and that the suburban building that they erected has been destroyed by the last superintendent who remained in charge, viz: D. Santiago Granger—he having taken therefrom the doors, iron window gratings, and other things, and brought them to San Dimas; that as to the ores, he has already stated that they still remain in the patio of the hacienda, and that nobody will take them even at gift, they being of the kind called "michi," which will not pay to beneficiate, and that this is all he has to say.

Signed before the aforesaid judge, Cipriano Quiroz de la V., with the assistant witness.

Letter of Santiago Granger to the Judge of First Instance at San Dimas.

I, Santiago Granger, a native of England, and a resident of this place, present myself before you and say, that I have disposed of the articles hereinafter specified, property of the Abra Mining Company, in the district of Tayoltita, in order that you may be pleased to appoint assessors to place a valuation upon them, so that at any time when the company shall call on me, I may be able to deduct the amount of their value from what said company owe me. They are as follows: 1 counter for store, 1 range of shelves, 3 large doors, 5 arrobas of iron.

(Signed,)

SAN DIMAS, June 4th, 1871.

SANTIAGO GRANGER.

Court of First Instance, San Dimas, October 11th, 1871.

These proceedings being now concluded, make return of the same to the supreme government of the State, for the purposes they may serve.

I, the present judge, so ordered, commanded, and signed with the assistant witnesses, in accordance with law.

(Signed,)

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CIPRIANO QUIROZ DE LA V.
PAZ GURROLA.
ISIDORO MENDEZ.

151

EXHIBIT No. 1. [1872.]

[Translation.]

[American section.] Prosecuting Attorney's office of the circuit court of Durango.

In a supreme order addressed to this office, under date of the 16th of last April, by the Secretary of State and of Foreign Relations, it is directed that proceedings be instituted by the tribunal of first instance, tending to the elucidation of important facts concerning certain claims preferred before the Supreme Government.

On the 23d day of the month of August of last year, Cecilia Jimenez made a deposition before that tribunal, stating that an American general, called Alonso W. Adams, who lately went in company with one Mr. Dana, was the person who, by himself, called upon some laborers residing at Tayoltita, who were engaged at their work, and that said general obtained depositions from them, promising to remunerate them well for their loss of time; and that this took place without any witness or authorization whatever; that the said Cecilia Jimenez subsequently came to San Dimas, and that, being at the Candalario Company's reducing works, she knew, and was present when the aforesaid general had a very warm altercation with James Granger, and an American called Raphael Martin, because they did not think it right that said general should take depositions by himself; and that, besides, they considered such depositions false, believing that said general had sought to impose upon some of the deponents who could neither read nor write; that in consequence of these differences, Martin ran the general out of the establishment, and told the general that he did not desire to compromise either the company or Mexico, as difficulties would arise on account of the false pretensions, founded upon the depositions taken by the general, aforesaid, from the laborers.

Thus, then, you will be pleased to extend the inquiry, ascertaining first, whether in fact the foreigners, Adams and Dana, were in San Dimas; secondly, whether both, or only one of them sought to obtain the aforesaid depositions from the laborers; thirdly, who were those laborers, as the aforesaid Cecilia Jimenez will be able to tell their names and surnames, and to give the necessary data, in order that the tribunal may cause them to appear to testify; fourthly, on the appearance of some of the laborers, they shall be made to state what took place with those foreigners, whether these laborers came there of their own accord, to make certain statements of facts to them, and what those statements were; and finally, whether they can read and write; fifthly, the aforesaid Granger and Martin shall be examined, especially the latter, in regard to what Cecilia Jimenez asserts to have witnessed.

Inasmuch as in the depositions already made before that tribunal by Granger, it appears that one James Potiller killed one James Soto with a pistol shot, you will extend the investigation, in order to ascertain who was this Potiller, and whether the fact of the shooting has anything to do with the claims of the company; whether Potiller was a member of said company, or had any connection with the mining establishment; and, finally, whether he was arrested for that shooting; whether he was put upon trial, and what was the final result of the same?

In the identical inquiry instituted before you, Granger and A. Sloan stated that the superintendent of the company had been imprisoned by the judge of 152 Tayoltita, and it will be necessary for you to extend the investigation, in order to ascertain the name of that superintendent; how long he remained a prisoner; who was the magistrate that caused the arrest, and what was the result of the appeals which the complainant may have addressed to the superior authorities of the State?

You will also endeavor to ascertain if the mining company of the Abra had any mules; if these or any of them were taken away by the authorities of the district, or if such authorities imposed any other burden, or subjected them to any exaction or violence of any kind; and as soon as you shall have completed these proceedings, which, I trust, will be done with the least possible delay, I beg that you will send me the original papers, in order that I may communicate the contents to the Minister of Relations, to which effect you may consult me as to any doubts or difficulties which may present themselves, with a view to their immediate solution.

Independence and liberty.

Durango, May 16th, 1872.

(Signed)

JOSE M. HERNANDEZ.

To the Judge of the first instance of the district of San Dimas. Office of the Prosecuting Attorney of the Circuit Court of Durango.

Under date of the 14th of May I addressed myself to you, requesting that you would institute proceedings in conformity with the orders of the Minister of Relations, regarding some points concerning which I gave you the fullest instructions, and two months have nearly elapsed without my having received the proceedings from that tribunal; it is, therefore, indispensable that you will be pleased to notify me immediately, as to the condition in which this matter stands, and, if already concluded, that you will forward the documents in the case to me at once, in order that I may give an account of the same to the Ministry.

I now address myself again to that tribunal, in consequence of new supreme orders received by the last mail, directing that other measures may be adopted, necessary to prepare the defense of the Republic against the claims which have been preferred by the Abra Mining Company. So that you will be pleased, at once, and without delay, to obtain the following information:

1stly. Anastasio Milan will state, with all formality, whether it is true that, being judge of San Dimas, General Adams, and other foreigners who accompanied him, ap-

plied to him, Judge Milan, asking him to receive the depositions of such witnesses as might present themselves, to testify to the facts upon which the Abra Mining Company base their claim. If it is true that he declined to receive those depositions, let him state the cause or motive of such refusal, and relate all that took place on those occasions, in elucidation of the truth, as to the facts upon which it is pretended to base the claim.

If there were any witnesses formally summoned, or accidentally in attendance, who saw all that took place between Judge Milan and Adams, they will also be examined about the same facts.

2dly. How this refusal on the part of Judge Milan, to receive the depositions he had been requested to take, led to the extra-judicial examination of certain witnesses, among others, of Juan Francisco Gamboa, José Ma. Loaiza, and Matias Avalos. It is of importance that you should cause those persons to be summoned, in order 153 that each of them may testify, in due form, in what place, and by whom they were extra-judicially examined upon the matter of that refusal, as well as to other facts upon which the Abra Mining Company base their claim. They must state upon what terms they made their depositions, and whether they received any sum of money, or any other compensation for making the same. You will also ask them, if they were in Mazatlan in the month of May, 1870. If they appeared or were taken before the consul of the United States at that port, let them state for what purpose; what were the questions put to them, and what were their replies. Upon this point you will examine, in all due form, James Granger. And if you can ascertain that other persons have left the place to go to Mazatlan in the month of May, 1870, and that they have appeared before the consul of the United States, it will be proper for you to examine those persons also.

3dly. The principal facts which have given rise to these claims are, that the people, as well as the authorities, made hostile demonstrations against the company, and that said authorities required the works to be carried on according as they thought proper to direct; that they had convoked the people and the laborers, requesting the latter not to work on account of the company, and promising them to turn the mines over to them, to be worked by them for their own benefit. So that you will endeavor to examine some respectable residents, in order that they may state whether, in fact, the people and the laborers ever entertained any such purpose; whether the authorities actually did forbid the laborers to work on account of the company, and if it be true that Aquilino Calderon was driven from the mine of Del Cristo in consequence. The witnesses will moreover be made to state what motive the authorities had for making such prohibition.

It is of great importance that C. Marcos Mora, who was the judicial authority of that district, and Guadalupe Soto, who was judge at Tayoltita, be examined, in order that they may state whether they have dictated, and issued the communications, a copy of which accompanies this; it will be necessary for you to examine some of the residents, to ascertain if it be true that, in those years the mines called the "Abra mines" were attacked by the people, and what measures were adopted by the authorities for the suppression of those disorders.

4thly. It is also important that you should find in the archives of that tribunal, the data of a lawsuit, between Guadalupe Soto and the company, arising out of the appropriation, on the part of Soto, of one of the Abra mines, which suit the magistrate of Tayoltita would take no cognizance of, and which, it is said, was decided by the authorities of Durango in favor of the company; if you can find the data of this litigation, you may procure for me, evidence of the final disposition of the case, and send it to me with the other documents; if the suit has not been adjudicated, then you will draw up a certificate, setting forth the condition in which the matter stands.

You will endeavor to ascertain from the residents, or laborers, if they know whether Soto had been taking away any silver ore from any of the mines of the Abra; how many loads had been taken; what was the quality of the ore; by whose permission or authority Soto had taken away said ore, and if a permission to this effect had been granted to any of the employees of the company. These same questions will be put to Soto, requiring him to state whether said permission was verbal or in writing, and if in writing, to show the document to you; said Soto will moreover be required to state whatever he may deem proper upon this point.

154 5thly. You will also endeavor to find out from some of the most respectable residents, if they know the cause of the imprisonment of the American, Alfred A. Green, by the order of D. Camilo Perez, and why he was expelled from the mines of San Luis.

6thly. You will inform yourself, officially, at the bureau of the chief of the district, whether among those archives there is any evidence that in the month of July, 1866, by agreement with, or by direction of the civil authority then existing, the commandant, Dn. Jesus Valdespino, imposed a loan of \$1,200 upon the company of the Abra; if this loan was covered in; if the whole, or part of the amount, has been returned; and if Valdespino was authorized to impose the same.

7thly. It is said that in a place called the Toro, in the State of Sinaloa, and not far distant from San Dimas, a certain individual named Grove, an employee of the mining company, was killed. You will be pleased, therefore, to address a letter of instruction to the judge of that place, called Toro, in order that he may take the testimony of witnesses, stating who attacked and killed Grove; if they had any military character, and to which forces they belonged; whether any mules, or effects were taken from him; and if measures were taken by any judge for the punishment of the culprits.

This same investigation will also serve to throw light upon the circumstances attending the attack upon another member of the company, named Scott, or Scottie, at a place also located in the vicinity of the mines, and who was driving a pack of mules loaded with provisions for the company.

8thly. It is alleged that Mr. Exall, superintendent of this company, was imprisoned at the mines; you will be pleased to find out if, in that tribunal, or in the bureau of the supreme civil authority, there is any notice, or record of such arrest, and of the reasons which caused it.

The minister of relations has ordered that this information shall be procured with the greatest despatch; as, also, with regard to the other proceedings; therefore, I entreat you, on my part, that not a day may be lost in carrying out the same; and, also, that you will consult me in regard to any doubt or difficulties which may present themselves; and, finally, that on the whole being concluded, you will forward the same to me at once, to which effect the tribunal of justice of the State has communicated the instructions which I have entrusted to you by supreme order.

Independence and liberty.

DURANGO, July 8, 1872.

(Signed)

JOSE MA. HERRANDEZ.

To the judge of the first instance of the district of San Dimas.

[The following is the copy of orders to the company by the Gefe and Judge Mora, and Soto, referred to in the above instructions:]

Fiscal Department of the Circuit Court of Durango. Political Bureau of the District of San Dimas. This gefatura having been informed that you have suspended work at the mines, I tell you that this is not the engagement you have entered into with me; therefore I think that you do not value your word in anything; nevertheless, if you do not desire to work yourselves, give permission to the people that 155 they may work the mines, because I am not responsible for the evil consequences which may result from a people without work. Independence and reform.

SAN DIMAS, July 10, 1867.

(Signed)

MCS. MORA.

To the representatives of the mines at Tayoltita.

2d Conciliating Court of Tayoltita. This court has been informed, to its great displeasure, that you have not deigned to reply to a communication which was addressed to you twenty-four hours since. I therefore notify you, to come to terms with the operatives about the work, within two hours, and if no agreement is made by them, that you vacate the mines, in order that they may lose no more time. Liberty and reform.

TAYOLTITA, July 5th, 1867.

(Signed)

GUADALUPE SOTO.

To the Superintendent of the Abra Mining Company, present.

2d Conciliating Court of Tayoltita. In consequence of the official communication of yesterday, the 3d inst., received from the gefe politico of San Dimas, I notify you, that if you do not intend to continue working the Abra mines upon the system of "thirds," as formerly, that you forthwith vacate the mines, and allow the operatives to work them for their own account, and that they may lose no more time. Liberty and reform.

TAYOLTITA, July 4, 1867.

(Signed)

GUADALUPE SOTO.

To the Superintendent of the Abra Reducing Works.

Gefatura Politico of the Department of San Dimas. This gefatura has learned, with great displeasure, by your official communication, of the abuses being committed by those Americans, who, after at first having agreed to pay the operatives all in cash, afterwards promised to pay half and half, and a third time to pay them one-third. You will notify them, through your court, and by my order, that at least they shall carry out their last contract; that is, that they shall pay them one-third in cash, and if not, that they give up the mines to the operatives, to be worked by them as

best they may, since the mining ordinances do not provide that they shall be paid in goods alone, nor will the Government allow such abuses, and I am tired of receiving thousands of complaints upon the same subject. You will furnish the American, at the head of the company in this town, with a copy of this communication. Independence and reform.

SAN DIMAS, June 3d, 1867.

(Signed)

M. MORA.

To GUADALUPE SOTO, *Judge Conciliador of Tayoltita.*

The foregoing is a copy.

(Signed)

HERNANDEZ.

SAN DIMAS, July 15, 1872.

Received the foregoing communication, with the accompanying copy of that of the Fiscal Department of the State, under date of the 8th instant. Let the proper acknowledgment be made of the communication to which it refers, of the 14th of last May. Let the measures requested be adopted. The first conciliatory judge of first instance, Cipriano Quiroz, of the O. of this district. It is thus provided, ordered, and signed by those of the associated bench. Cipriano Quiroz, of the O., (one signature;) A. E. Padilla, (one signature;) A. H. Rodriguez, (one signature.)

On the same day was cited and personally appeared Doña Cecilia Jimenez, whom I protest to know, and being of age, she was sworn to tell the truth, and before this she was made acquainted with the points contained in her declaration, which appear in the second paragraph of the foregoing official communication of the fiscal department of the State, under date of the 14th of last May, and being fully cognizant of the contents, she said that what was stated therein was correct, and that she corroborated the same. Being asked who the workmen were from whom the Americans, Adams and Dana, received depositions on the subject, in reference to injuries sustained in the negotiations of Tayoltita, she replied that she knew of that transaction, but that she did not remember the workmen; that Dionisio Gutierrez may know the names of the parties, because Mr. Adams was once in his house; that this is all she can say with truth. This deposition having been read to her, she reasserted and corroborated the same. Signed with me and the attesting witnesses. Cipriano Quiroz, of the O., (one signature;) A. H. Rodriguez, (one signature;) A. Simon Coronado, (one signature.)

Proceedings in continuation.—This is to show that, upon the foregoing deposition being presented to Doña Cecilia Jimenez to sign, she stated her inability to do so. I note this fact, with attesting witnesses. Cipriano Quiroz, (one signature;) A. E. Padilla, (one signature;) A. Simon Coronado, (one signature.)

On the same date, inquiries having been made for the parties referred to in the foregoing record, Messrs. Santiago Granger, Rafael Martin, Americans, Anastasia Milan, Juan Francisco Gamboa, José M. Loaiza, Matias Avalos, M. Mora, and Guadalupe Soto, whose depositions are to be taken, and in order to examine such other witnesses as may be referred to by these deponents, it is placed on record that Martin is at San Francisco, California; Gamboa and Loaiza in the district of San Ygnacio, State of Sinaloa; Soto and Granger in the mining regions of San Vicente, in the same district; and as to Mora and Avalos, their place of residence is not known; consequently it was ordered that the investigation, in regard to the latter, should be continued, and requisitions will be served, one on the tribunal of the first instance of San Ygnacio, enclosing all the papers relating to the depositions to be taken from all that may be found within said jurisdiction, and another in the shape of an order to San Vicente, in order that the magistrate of that place, who resides in that vicinity, may take measures to cause the appearance at the place under my charge of the abovementioned Soto and Granger, causing to be issued, in the meanwhile, the other citations concerning the investigations that are to be made. Let these proceedings be communicated to the attorney of the Government, and to the Supreme Tribunal of Justice of the State, for their information and final decision. The conciliatory tribunal, and that of the first instance, who sign this, thus decided, ordered, and signed before the attesting witnesses. Quiroz, of the O., (one signature;) A. E. Padilla, (one signature;) A. José Maria Martinez, (one signature.)

SAN DIMAS, July 16, 1872.

In consequence of the deposition of Doña Cecilia Jimenez, a summons was sent to D.

Dionisio Gutierrez, but he could not be found in this place in consequence of his being absent; it is also recorded that a reply was sent to the fiscal department, in reply to the note received; and the papers in the foregoing proceedings were enclosed separately. The requisitions mentioned in them were also issued. I record the same for evidence, before my attesting witnesses. (Signed) Quiroz, of the O., A. E. Padilla, A. José Maria Martinez.

San Dimas, July 17, 1872.—Having proceeded with the investigation relative to the killing of James Soto, by the American, James Petiller, a summons was served upon Martin Delgado, who, the court was informed, might be able to give a deposition in regard to this incident, and on making his appearance he was formally sworn.

Previous to this he was asked what he knew of this occurrence, and he said that in the year of the invasion of Durango by the French, he being a magistrate in that mining district, there took place the occurrence of the killing, with a pistol shot, of the Mexican, Teodoro Soto, (not James Soto, as above stated,) by the American, named James Petiller, of which act the deponent took judicial cognizance, and he drew up the corresponding verbal process, which being concluded, he forwarded the same, with an account of the other proceedings appertaining to his functions, together with the culprit, Petiller, to the second criminal tribunal of Durango, then in charge of the licentiate, Lorenzo Sencunegui. That from what took place during the proceedings in the case, he remembers what follows as the principal points. The deponent, in his capacity as magistrate, accompanied by witnesses, went to the place where the body of Teodoro Soto lay, and having inquired of James Petiller, who had killed Soto, he replied that he knew him to be Teodoro Soto, and he was aware of the cause why it had been said that he had killed him. These proceedings having been concluded with the inquest and identification of the body of the dead man, it was proved that Petiller was the assassin who had fired the shot at the other, while drunk, and that in consequence of carelessness on the part of the guard, he made his escape, but was immediately re-arrested and imprisoned, until he was sent on to Durango; that he knows nothing of the results which followed in this case; that Petiller was the person who superintended the works of the *Balenas mine*, on account of the owners of said mine, and of that of the *Candelario*; that the witnesses to the aforesaid assassination were several, because it took place at a ball, but he does not remember the names of those present; that the witnesses in attendance at the inquest held upon the body were D. Guadalupe Martinez and D. Tomaso Rodriguez; that this is all he can say with truth. On this deposition being read to him, he re-asserted the same and corroborated it. He signed before me and my attesting witnesses, the deponent adding that he was a single man; aged forty-four years; a merchant by profession, and of this neighborhood. I certify—(signed,) Cipriano Quiros de la O., Martin Delgado, A. E. Padilla, a José Ma. Martinez.

On this same occasion, there were summoned the citizens Guadalupe Martinez and Tomaso Rodriguez, the witnesses alluded to in the foregoing depositions. I make note of the same for evidence.

SAN DIMAS, July 18, 1872.

Present: Guadalupe Martinez, mentioned in the foregoing deposition of Martin Delegado, whom I protest to know, being duly sworn to tell the truth; prior to this formality, he was examined in relation to the deposition of Martin Delegado, and he said that the statements of that gentleman are correct in every part. As
158 the deponent, Martinez, was one of the witnesses in attendance at the inquest over the body of Teodoro Soto, who was killed by the American, James Petiller, which is all that he can say with truth. Upon this deposition being read to him he re-asserted the same, and corroborated it, adding that his name is the same as above stated; that he is a married man; over seventy years of age; by calling a merchant, and a resident of this district.

Signed before me and attesting witnesses. I testify—Cipriano Quiroz de la O., A. E. Padilla, A. Albino Toner.

AT SAN DIMAS, July 15, 1872.

Present: The citizen, Tomasio Rodriguez, of age, whom I protest to know, who being duly sworn to tell the truth in regard to what he might know, in answer to the questions which should be put to him during these proceedings, he was interrogated as follows:

Were you present at the killing of Teodoro Soto? He replied that he witnessed the act in this manner: he was at a musical party, and by his side was seated the aforesaid Teodoro; the American, James Petiller, came to the ball, and entered with a pistol in his hand, crying "*Hurrah for Mexico!*" and going towards Teodoro, he fired directly at him, from which shot he died in a few hours. Petiller was a little typey; that the latter was employed in the mine of Boleños, in the establishment of this mining district, and not of the *Abra of Tayolita*.

Being asked what was the cause of that act he replied: that at the time of the commission of the act none existed; but that he understood from Teodoro himself, when they were carrying him wounded to his house, the origin of the difficulty arose from the fact that Petiller had ordered Teodoro to carry some tools to his wife, and that in consequence of the conduct of the latter, Petiller was much displeased against Teodoro; what for he does not know; that the offender was arrested and sent to Durango and that he does not know what was the end of the affair. That is all he can say

with truth, adding that his name is the same as above stated; that he is a single man; thirty years of age; blacksmith by trade, and a resident of this mining district. On this deposition being read to him, he affirmed the same and corroborated it.

Signed before me and those of my associates. (Signed) Quiroz de la O., A. E. Pedillo, A. José Ma. Martínez.

REPUBLIC OF MEXICO.

Political Bureau of the District of San Dimas:

This bureau having been made acquainted with the contents of your note of the 18th of last month, I have to say to you, that having searched the archives of THIS bureau, under my charge, for some data relative to the loan of \$1,200, which the owners of the "Abra" assert to have been imposed upon them in the year 1866, by the officer in command, Jesus Valdespino, by agreement with the political authority of this district in said year, I have found a document which reads verbally as follows:

"E. B. United Brigades—Brigade of Durango—2d Section—Teniente Colonel-in-Chief.

The extreme want which the force under my command is suffering, with which I have received superior orders to come into this district, to which purpose, and in order to sustain said force, I have had conferred upon me sufficient powers to procure means for the maintenance of the same, and of the other forces which I am to organize; but in view of existing circumstances, and being also satisfied that the district cannot, without much inconvenience, afford the means which I find it indispensable to procure, at all hazards, in fulfillment of the duties I have to discharge, with this object in view, therefore, and in order that the people hereabouts may not suffer greater burdens than would be occasioned by my remaining over night, I have determined to take up my march as soon as possible; and in order to accomplish this, I want means, and I confine myself to what is absolutely necessary; thus then acting in conformity with the powers conferred upon me, and in consideration of what has been stated above, you will levy upon those persons in best circumstances, of this district, and of the villages and estates appertaining to the same, the sum of (\$1,200) one thousand and two hundred dollars, which they will pay within the space of four days counting from to-day. I should desire the political authority not to levy any contribution or loan, and it is painful to me to proceed in this manner, although compelled by the stringent character of my duty. Although determined to withdraw, I wish every good to these people. I strongly urge upon you that the collection of this sum shall be made with the greatest possible care and equality, and of accord with a commission which you will name from among those that are best informed, which commission shall be presided over by the head of that bureau. I avail myself of this opportunity to tender you the assurances of my consideration and distinguished regard.

"Independence and liberty.

"San Dimas, July 27, 1866.

(Signed)

"To the political chief of this district, present."

"JESUS VALDESPINO.

And in view of the fact that this bureau is not in possession of more circumstantial data upon the subject in question, it has been determined to forward these to D. Ygnacio Quiros, who, at that period, was political chief of this district, who, being present, and having read your communication, says, that he does not remember well what the Americans of Tayoltita gave on the occasion, when Valdespino was in this mining district, but that it could not have exceeded two hundred dollars at the utmost, and this was given in the shape of goods, for although this was in the nature of a loan, yet Valdespino, taking into consideration the then existing circumstances of this mineral district, he confined himself to request that they should contribute, voluntarily, whatever they pleased for the support of his force, which was done by making the shares as equal as possible in this mineral district, which was in conformity with the sum mentioned; that he does not remember the amount, because he made no note of the fact, and that it has therefore not been repaid, and that he does not know whether this Valdespino was authorized to raise loans. This he will say: that when Santiago Papasquero came to this point, he was Governor of the State, and D. Genaro Leyva, as secretary, wrote to this district, approving of what had been done in behalf of Valdespino. This is all the information that this bureau, under my charge, can give you.

Independence and liberty.

San Dimas, July 19, 1872.

(Signature)

ARCADIO LAVEAGA.

To the Judge of the 1st Instance of the District of San Dimas, present.

SAN DIMAS, July 22, 1872.

Having been privately informed that the citizen Refugio Fonseca is the person who was in the service of the Abra Company of Tayoltita, and that, therefore, he must be able to give a circumstantial account of what took place on the occasion of the arrest of the superintendent of that establishment, as also in regard to the animals 160 which may have been taken from the aforesaid company, the said Refugio was consequently summoned; and, being present, he was sworn to tell the truth, as to what he might know, and in respect to the questions put to him. Upon this principle, he was interrogated in the following form:

Do you know what was the name of the superintendent of the Abra; if he was arrested by the magistrate, judge of Tayoltita; how long he was imprisoned; what magistrate ordered the arrest, and what was the result of the superintendent's application to the superior authorities? He replied, that, as a servant of the aforesaid company, he knew the superintendent about whom he is questioned, whose name was Carlos H. Exall; that he was arrested by Judge Nicanor Perez, in consequence of some misdemeanors that the former had committed, because he went to his house (he does not know on what business); that he was imprisoned for three days, and that he does not know whether said Carlos had made any application to the authorities of the State.

On being asked: Do you know if the aforesaid company had any mules; if these, or any of them were seized by the authorities of the district, and if the latter imposed upon said company any burdens, or subjected them to any exactions of violence? He replied that he knew the Abra establishment to be in possession of eight pack-mules and three saddle-mules, of which not even one was taken from them by the authorities of this district, and he is not aware that any burdens had been imposed upon said company, or that they had been subjected to any exaction or violence; that he knows that the people of the establishment sold four of the mules mentioned to Peoquinto Nuñez, one to Calisto Laretto, three which had been stolen from them were subsequently paid for by order of Camilo Perez, who was in authority, which payment was made in current money, and the saddle-mules were taken away by the people of the establishment, when they left. He added that his name was Refugio Fonseca: that he is forty-five years of age; a married man, and a day laborer, and a resident of this mining district. When this disposition was read to him he affirmed the same and corroborated it.

Signed before me, and my attesting witnesses, I certify.

(Signed)—Cipriano Quiroz, Refugio Fonseca, A. Timoteo Jaires, A. Antonio Galasa.

There being no mode of conveyance to San Ygnacio, at the time, either by mail or through private sources, to forward the requisitions decreed by the act of the 15th instant, let this difficulty be made known to the prosecuting attorney, for his information and final disposition. The judge in these proceedings so directed and ordered.

(Signed)—Quiroz, A. E. Padillo, José Ma. Martinez.

San Dimas, July 23, 1872, on this day the communication above alluded to was forwarded. I make note of the same for evidence. (Signed)—Quiroz.

Under the same date, there being present James Granger, the witness alluded to in the foregoing depositions, whom I protest I know, being of age, he was duly sworn to tell the truth, and was examined as follows, in reference to what has been stated by Doña Cecilia Jimenez, in the first page: being asked, have you any proof that the foreigners, Adams and Dana, were in this mining district? He replied, that in the month of April or May, 1870, the aforesaid persons were here; that he understood

from Adams himself that he came to take the depositions of some workmen, 161 and that, in fact, he saw him bring some of them from Tayoltita, and that he saw them in the house of Judge Anatasio Milan, but he does not know whether he took their depositions; that deponent being in the court-room, in company with Mr. Dana and General Adams, Milan told deponent and Dana to withdraw from there, which they did, Adams remaining in the court-room; in a short time the latter came to the place where he was, saying to him, in a state of great vexation, "that he was going away, because it was impossible to take the depositions;" that he does not remember anything about the workmen who came from Tayoltita; that the altercation which took place between General Adams and Raphael Martin was not on account of the depositions, but about the altitude of a mound, or hill, which stood opposite.

Being asked who James Petiller was, or what connection he had with the mining establishment; if the latter killed Teodoro Soto with a pistol shot, and if this act had anything to do in originating the claims of the company, said, that he did not witness the occurrence, but that he heard it talked about, and that he, Petiller, was not an employee at Tayoltita.

Being asked what he knew about the imprisonment of the superintendent of the mining establishment of Tayoltita; what was his name; how long he was imprisoned; by what judge; and what was the result of the application which the latter made to the authorities of the State, he replied, that he was a witness to the arrest,

and that his name was Charles H. Exall; that he was imprisoned for two or three days, because he reproved Judge Nicanor Perez for having removed from one room to another in the establishment of the company, and he knew that the superintendent had complained to the Governor of Durango, but that he does not know with what result.

Being asked, have you any proof that in the year 1870, Adams and Dana took Juan Francisco Gamboa, José Ma. Loaiza, and Matias Avalos before the American consul at Mazatlan, and for what purpose; he replied, that he is certain to have seen the latter in Mazatlan, but that he did not know what was their business there; that this is all he can say, with truth, in answer to the questions put to him; he added, that his name was the same as above stated; that he is a bachelor; forty years of age; a miner; and native of Great Britain, and a resident of the mining district of San Vicente.

On this deposition being read to him, he affirmed and ratified the same.

Signed before me and attesting witnesses.

On signing this deposition, he said that Matias went to Mazatlan with Doña Cecilia Jimenez, but that he does not know how the others, Gamboa, and Loaiza went there. I certify— (Signed,) Quiroz, James Granger, A. E. Padilla, A. Emiliano Garcia.

At San Dimas, the 24th of July, 1872, present, Guadalupe Soto, whom I declare I know, and a witness who has to be examined in regard to the points referred to in the foregoing depositions. With this view, he was sworn to tell the truth, in answer to any questions which might be put to him. Prior to this formality, the following questions were put to him:

Question. When you were judge in Tayoltita, in 1867, did you direct and issue the communications dated respectively, the 5th and 4th of July, copies of which have been shown to you, and which appear on page 6 of these proceedings, he replied that he is certain of having issued such communications to the administrator of the "Abra" establishment, and that he did so because there had been a rising of the people to compel him to.

162 Being asked—Have you disposed of, or taken any metals or ores belonging to the Abra mining establishment, and say by whose orders?—He replied that he had never taken even a solitary stone; that what he did was to construct a stone mill on the Guadalupe estate, belonging to the mining company. This work was constructed with the permission of the superintendent, Carlos, and that he will produce evidence of the fact before this tribunal, unless the papers in the case have been lost. That it is true, that they were reducing ores at the said hacienda from the Abra mines, but that these were reduced for, and belonged to the workmen who were working at the mines, under permission granted by the superintendent, which was given for the purpose of protecting the mines; that of the aforesaid laborers, he only remembers Andres Serrano and Luis Acuña, who will be able to give the names of the others; finally, that James Granger, who had control of said establishment, will be able to speak more definitely in regard to the same. That this is all that he can say with truth. On this deposition being read to him, he affirmed and ratified the same; he added that his name is as above stated; that he is a married man; fifty years of age; a tailor of this neighborhood, and a native of Tayoltita; on this deposition being read to him, he added that the communications which he issued were in consequence of the fact, that besides the disturbance on the part of the people, he had received orders to that effect from the political chief, Marcos Mora; all in consequence of the failure of the superintendent to contract with the operatives for working the mines; he affirmed and ratified all the preceding statements. Signed before me and my attesting witnesses. I certify. (Signed,) Cipriano Quiroz, Guadalupe Soto, A. E. Padilla, A. Camilo Perez. Continuation:—In view of the allusions contained in the deposition of Guadalupe Soto, relative to James Granger, let the latter be summoned, in order that his deposition may be extended, in what may be deemed proper; the subscribing judge thus directs, orders, and signs with the attesting witnesses. (Signed,) Quiroz, A. E. Padilla, José Ma. Martinez.

At San Dimas, July 25, 1872. Present: James Granger, who was alluded to in the deposition of Guadalupe Soto, and who, being sworn according to custom, was interrogated, as follows:

What position, or employment did you have in the mining establishment of Abra? He replied: At first I was a dependent, or clerk; afterwards, when the superintendent Carlos H. Exall left, I remained in charge as his representative.

On being questioned—Do you know whether Guadalupe Soto disposed of, or took away any metals or ores from the Abra mine?—He answered that he did not see, and has not known that Soto had taken away, or disposed of any species of ores or metals; what he knows is, that this person reduced ores which were brought to him by some of the workmen, which they extracted from the mines by permission, and for which they paid him.

Being asked, do you know of any lawsuit between Guadalupe Soto and the above mentioned superintendent, in regard to one of the mines of the aforesaid company? He answered, that the company had no litigation with Soto on account of the mines, but that there was a lawsuit about the Guadalupe hacienda, which was adjudicated to the company by sentence of the court at Durango. After this, the superintendent agreed to allow Soto to build two stone mills on said estate, in which Soto smelted, and reduced the ores above mentioned; that the above statement is the truth.

163 The above deposition being read to him, he affirmed and ratified the same.

Other particulars relating to himself are not stated, having already been mentioned in his former deposition.

Signed before me and my attesting witnesses. (Signed,) Cipriano Quiroz, James Granger, A. George Sareo, A. E. Padilla.

On the same day, it having come to the knowledge of this tribunal that Bartolo Rodriguez was one of those whom the American, General Adams, had brought from Tayoltita to testify in regard to the damages received by the Abra Company, let him be summoned, in order that he may be examined as to what he may know in the matter of the inquiry which is asked for by the Federal prosecuting attorney, according to the foregoing note. The subscribing judge has so directed, ordered, and signed, in the presence of his attesting witnesses. (Signed,) Quiroz, A. E. Padilla, A. Anastasio Aguirre.

On the same date, appeared Bartolo Rodriguez, whom I declare to know, who being sworn to speak the truth, and understanding the obligation, he was interrogated: Are you one of those who came from Tayoltita at the request of the American, Alonso W. Adams, called General, for the purpose of testifying in regard to damages occasioned to the Abra Company?—he replies, it is true, he is one of those who came, and Guadalupe Soto and Aquilino Calderon will remember the fact.

Being asked, did you make any deposition, at the request of the aforesaid Adams, before what magistrate, and what statement did you make?—he answered, that he made a deposition, at the request of the aforesaid American, before Judge Anastasio Milan, and what he stated was, that on being asked by said magistrate whether the ores deposited in the mine, de "La Luz," were rich, he replied that they were of no account. Subsequently, he was questioned as follows: If he knew why the company of Tayoltita had left?—he answered, because they did not find any silver. Whether the authorities gave guarantees or assistance to the company when requested, he answered, that there had never been any necessity for asking any. Whether there had been any disturbance or robbery at Tayoltita, he replied that until now he had not heard of it. What amount of ores he thought were stored at Tayoltita, he answered that he did not know.

This is what he remembers at present, but there were many more questions put to him; that deponent's deposition was taken down and signed by him before the magistrate aforesaid.

Being questioned, whether he had been requested by the aforesaid American, Alonso Adams, to make that deposition; if the latter advised him what to state, and if any money had been offered him: he replied, that he had been requested by said Adams and James Granger, in Tayoltita, who told him that they wanted some depositions, in which they were interested, in behalf of the company; that they offered to pay him twenty shillings (reales) a day for every day he should be engaged in this business, besides the travelling expenses from Tayoltita; that he received, in payment, something like ten dollars in various sums, some from the hand of Adams, others from Granger, and he remembers that they did not pay him the whole amount due to him, probably because they did not like the truth contained in his deposition. He affirmed and ratified the same. Signed before me and my attesting witnesses. (Signed,) Quiroz, Bartolo Rodriguez, A. E. Padilla, A. A. Aguirre.

164

Proceedings in continuation.

Having been informed that Victoriano Sandoval was in the service of the company of the Abra, and that he may know something about the arrest of the superintendent, and the number of mules which were taken from the company, he was summoned, and being present, he was sworn according to custom, and having understood his obligation to tell the truth, he was questioned upon the following points: Being asked what do you know concerning the arrest of the superintendent of the company of the Abra; what was his name; by what magistrate was he arrested; what was the cause of his arrest; and how long was he detained a prisoner; and what was the result of the complaints which he addressed to the superior authorities of the State? He replied, that he was not present when this occurrence took place. Being asked did he know how many mules the company possessed, and if any of them were taken by the authorities of this district, he replied that he, as the servant of the establish-

ment, knew the company to possess about eleven, and that he is not aware, nor did he ever hear, that any authority had ever taken even one animal; and what he knows is that the miners of the establishment sold most of the mules.

Being asked do you know if any authorities have imposed burdens upon said company, or subjected them to any exactions, or violence of any kind, he replied that there were no burdens imposed by anybody, nor was the company subjected to any kind of exactions or violence; that this he remembers, that a military chief, Jesus Valdespino, requested means for the maintenance of his forces, and there was given to him about two hundred dollars, which were raised by voluntary contributions among the workmen and the residents, because deponent gave two dollars, and he knows that Carlos H. Exall, the superintendent, voluntarily contributed \$16, and that another American, John Correll, gave a piece of cotton cloth; this last fact he knows by hearsay.

Being asked do you know if any authority has demanded that the company should prosecute their works according as said authority might direct; that they called a meeting of the people and the workmen, exhorting the latter not to work on account of the company, promising that the mines would be delivered up to them, in order that the same might be worked for their own advantage; he answered that he is not aware of such things having taken place, nor did he ever hear anything on the subject.

Being asked do you know, or have you heard, that any authority had forbidden the workmen of the company of the Abra from working on account of said company, and if it be true, that for this reason Aquilino Calderon was ejected from the mine Del Cristo, he replied: that he does not know even from report of the matter alluded to in this question; what he knows very well is, that he, the deponent, being a miner in the mines of said company, the superintendent ordered him to procure people to do the work, promising to pay them all cash for their work, which they did day and night. That in a short time they declined to perform this obligation, promising to pay them ten shillings per day, (reales,) in current money, from six in the morning till six in the evening. This they refused again to do, and offered to pay them one-half in money and one-half in goods; and shortly after they repeated their refusal to carry out their promises. Then they were summoned to appear before the authorities, and it was agreed that they should pay a third part in money; at the expiration of a few days, even this they failed to comply with, which gave rise to new complaints before the authority, and said authority demanded that they should comply with their obligations, but without resorting to any violent measures or attacks upon property; that this is all he can say with truth.

Being asked do you know whether Guadalupe Soto had extracted ore from the Abra mines, he replied: that he did not know; and that if any ore was found, it must have been that which the workmen were digging for by permission of the company. On this deposition being read to him, he affirmed and ratified the same, adding that his name was as above stated; that he is married; forty-seven years of age; a workman, and a resident of this mining district. He does not sign because he cannot write.

I certify.—(Signed) Cipriana Quiroz, A. E. Padilla, A. Camilo Contreras.

At San Dimas, the 20th of July, 1872, appeared Matias Avalos, one of the persons alluded to in the foregoing official note of the prosecuting attorney, dated the 8th instant, who was sworn to tell the truth in regard to what he knew concerning any questions which might be put to him, and being questioned accordingly:

At what point did you make the extra-judicial depositions obtained from you by those of the Abra Company which Anastasio Milan, the magistrate of this district, had refused to take when requested to do so? He answered that at this point he made no deposition anywhere; that he is certain of having made what he considered an extra-judicial statement at the port of Mazatlan, in the National Hotel, in the presence of various persons, among whom he remembers and knew an American called General and one William N. Camacho, and they both questioned him about the arrest of the superintendent of Tayoltita, and he stated how it occurred: how Judge Nicanor Perez had come to the house of the company to speak with deponent, and the superintendent being displeased with this, remonstrated with Perez, which gave rise to an argument of a disagreeable nature, and on his withdrawing from the place he caused the superintendent to be arrested in the evening, and to be confined in a private house, where he remained until the following day or a lesser period of time, which he does not now remember.

Secondly, he was asked whether he knew for certain whether the people of Tayoltita had made a demonstration against those of the company? He answered that he had heard it so stated, but that they had done nothing.

Being asked if he knew for certain that the company had been robbed of mules, and he answered that four mules had been stolen from the camp; first a saddle mule, and three subsequently; the first came back again, and the other three were paid for

by those who, it was said, had stolen them; this he well knew, because he was in charge of the mules.

He was asked if it was true that they had been prevented by the people from working? He answered that it was true; that this had continued for three days, but that the works were then resumed.

He was asked if it was true that an American who had been sent to Mazatlan to fetch money had been robbed? He replied that it was true, because he had heard persons connected with the company say so. That the above is what he remembers.

He was asked did you receive any compensation for the deposition which you made at Mazatlan? He replied that Mr. James Granger had agreed to pay him twelve dollars on the general's account, but that he did not receive that money for more than two years, when said general gave it to him last May in this mining district.

166 From a memorandum he made of his deposition, at Mazatlan, he said that after writing the same down, at the National Hotel, the deponent, the general, and William, who lived, and lives at Camacho, went to another house, where they began writing, and, from what he saw, correcting his deposition, and from there they took him to the house of the consul, simply asked him if he swore to the deposition he had made, and he answered, yes.

Being questioned—Who took him to Mazatlan, and for what object?—he replied that, at that time, he was in the service of Doña Cecilia Jimenez, and that on account of some difficulty with the latter, he managed to come over, and his arrival having come to the knowledge of the general, the latter detained him, in which he was assisted by James Granger, and then it was that they offered to pay him for his detention.

Being asked—Did you, at that time, which was the month of May, 1870, see Juan Francisco Gamboa, and José Ma. Loaiza, if he knew whether the latter made any depositions in Mazatlan?—he replied, that he was not acquainted with Gamboa; that Laoiza went with them to the port, and that he saw him in communication with the general, and he knows that he also made a deposition, but does not know whether they paid him anything, or not.

Being asked—Do you know if Guadalupe Soto took away any ores from the mines of the Abra?—he replied that he did not know, nor had he heard anything about it. On this deposition being read to him, he affirmed and ratified the same; adding that his name is as above stated; is married; thirty years of age; a day laborer, and a resident of this mining district; he does not sign, because he cannot write. I certify. (Signed) Quiroz. A. E. Padilla, A. Camilo Contreras.

In continuation, appeared Guadalupe Soto, who produced the evidence which he proffered in his deposition, of page 15, which was added, and is contained in page 19. I certify to the same before those in attendance. (Signed,) Quiroz, A. E. Padilla, A. José Ma. Martinez.

(Copy.)

The American, Charles H. Exall, as the representative of the mining company of the Abra, and D. Guadalupe Soto, enter into the following agreement:

Mr. Exall grants permission to said Soto, for the period of six months, counting from this date, to use the mining works (beneficio de metales) on the land formerly known as the Guadalupe Estate of Tayoltita, in the mining district of Tayoltita, on the following conditions:

1stly. Mr. Soto pledges himself not to destroy nor injure the structures and implements which are at present to be found in said mining land, but, on the contrary, to take care of the same as best he may, in behalf of Mr. Exall.

2dly. At the end of the aforesaid six months, Mr. Soto will deliver said land to Mr. Exall, or his successor, with all the improvements and implements which said Soto may have introduced in it, always recognizing him as the proprietor of the company of the Abra, without charging him anything for the improvements and works which he may have introduced upon the land aforesaid during the period mentioned, as, in the like manner, Mr. Exall should not exact anything for rent.

This agreement does not prevent the contracting parties from entering into a new agreement, extending the term or any other agreement satisfactory to both parties. San Dimas, February 7, 1868. (Signed,) Guadalupe Soto, Charles H. Exall.

167 We, the undersigned, the parties to the foregoing contract, mutually agree by these presents, that said contract shall continue in all its force and effect, and upon the same terms and conditions, for another term, which shall not exceed seven months, as follows: Beginning on the 7th of August of the present year, and ending on the 7th of March, 1869.

To conclude this, we have signed this day, August 7th, 1868, appending signature and seal. (Signed,) Guadalupe Soto. James Granger.

At San Dimas, the 29th of July, 1872, appeared Aquilino Calderon, whom I certify I know, a witness, and deponent alluded to in the deposition of Bartolc Rodriguez,

page 16; he was sworn to tell the truth in answer to the questions which might be put to him, and impressed with this obligation, he was asked, are you one of those who were called upon at Tayoltita for the purpose of being brought over to this place to testify in the matter of damages occasioned to the company? Relate all that took place until your arrival in this mining district: He replied, that two years ago, more or less, there came to Tayoltita an American called General, and deponent being at the mine La Luz, James Granger sent for him, and having appeared before Granger and the General, he was asked: first, if it was true that the people had risen against the Americans of the company? He replied to them that he did not know, because he had not been at the ball on that night; James Granger contradicted him, saying that he was certain of it because the people went about armed with cutlasses, and deponent saying to him that he did not know it; then the General asked Granger what deponent was saying; and the latter said, as he understood him, that he was certain of what he was asking, and continued writing the deposition.

Secondly, they asked him if it was true that Marcos Mora had gone to Tayoltita to suspend the operation of the mines, and he answered, that he did not know; James Granger contradicted him, affirming that he had gone there for that purpose; that he had been at the port of the Reventon. This being concluded and written down, Granger said to deponent not to mind anything, that he would have to come to this place to make the same deposition; that they should pay him twelve shillings (reales) a day, for every day he was engaged in this business; that, on the following day, the General, Granger, Doña Cecilia Jimenez, Guadalupe Soto, and deponent, came from Tayoltita.

Being asked did you make any deposition in this mining district, before what magistrate, what were the questions put to you, and what did you state, he replied, that being in this place, he presented himself at court, by order of Judge Anastasio Milan and the latter having asked him if it was true that the people of Tayoltita had risen against the Americans, he said in reply that there had been no disturbance; that what had taken place was a demand or request that they should comply with the obligations of their contract to pay them for their labors as it had been agreed upon; that other questions were put to him, but that he does not remember them; but that he remembers that most or all of them were answered in the negative. He recollects being questioned by Judge Milan if he knew whether all or any of the mines of the company of Tayoltita were being worked without permission of said company, he answered him that he knew some of the workmen were so engaged, but by permission of those in charge, like Mr. James Granger, who had granted leave to many of them.

That the general, in view of the statements of deponent, asked the aforesaid judge that he might be allowed to question deponent himself, and this not being permitted, the general was very much annoyed.

Being asked what other persons had come from Tayoltita to make depositions, or that any one from this place had made depositions concerning damages to said company, he replied that he did not know of any one having come, besides Bartolo Rodriguez, and as to those belonging to this place, he does not know that any of them have made depositions.

Being asked who were the witnesses in attendance when he made his deposition, he replied that he thought they were Camilo Contreras and Gil Ruiz.

Being asked if it was true that the authorities of this district and the people of the village were hostile to the company, that they demanded that the works should be conducted according to their wishes, that they had called upon the people and the workmen not to work on account of said company, promising to deliver up their mines to them, in order that they might work them for their own advantage, he replied, that he did not know, nor had heard of it; that what he knew was that those of the company having failed to carry out their contract to pay, as they had pledged their word to do at various times, the workmen exacted what was their due, refusing to work until what had been agreed upon was paid to them; and in consequence of this unanimity, they deemed wrong that the deponent should have gone out to work at the mine, and they ordered him away from the mine of Del Cristo, where he held the position of crusher.

Being asked, do you know if during those years any of the mines of the Abra have been attacked by the people, he replied, that it was not true, for he had never heard of it.

Being asked if it was true that Guadalupe Soto had taken away ores from any of the mines of the Abra, he replied that he did not know.

Being asked, do you know if the company of the Abra was in possession of mules, and if any of them have been forcibly taken away by the authorities of this district?—He replied, it is true that they had some animals, which were disposed of by the people of the company, without a solitary one being taken by the authorities; nor were any exactions imposed upon them. That the above is the truth, which he affirms and ratifies. This deposition being read to him, he added, that his name is as

above stated; that he is married; fifty-six years of age; a laborer; and a resident of this mining district; he does not sign, because he cannot write. (Signed,) Cipriano Quiroz, A. Camilo Contreras, Gil Ruiz.

Subsequently appeared Gil Ruiz, the witness alluded to by the deponent, Aquilino Calderon, who, being sworn according to custom, and understanding the obligations of an oath, he was interrogated:

Were you one of the attesting witnesses during the deposition which Aquilino Calderon made in the year 1870, relative to damages sustained by this company, and what were the troubles which occurred on that occasion between Judge Anastasio Milan and the American, styled general? He replied that he did not remember whether he attended as a witness during the proceedings referred to, but he remembers that he noticed great annoyance on the part of said American, because the depositions did not turn out as he desired; this was a supposition on his part, because he could not understand the language that he spoke. That this is what he can
169 say with truth. On this deposition being read to him, he added, that his name was as above stated; that he is married; forty-six years of age; a silversmith; and a resident of this vicinity. Signed in my presence and those attesting witnesses. (Signed) Quiroz. Gil Ruiz, A. Camilo Contreras, A. Podilla.

On the same day appeared A. Camilo Contreras, whom I declare I know; who, being sworn to speak the truth, and understanding the obligation of an oath, was asked—Do you know whether the American, Alfred A. Green, was arrested in this place, and and that he was expelled from the mine of San Luis? State the reasons which operated in both these events. He replied that he knew of the arrest of the party mentioned, but that he does not remember the cause. With regard to the mine of San Luis he knows that it was taken from him, in consequence of its being reported against by the Messrs. Laveaga as being in ruins.

Being asked—Do you know whether, during the time that the Americans were working at Tayoltita they were prevented by any authority from working at their mines, and if any of these mines were attacked by the people of the village or by laborers. He answered that he knows nothing about what occurred at Tayoltita; that this is what he can say with truth. And this deposition being read to him, he affirmed and corroborated the same. Signed before me and my attesting witnesses. I certify. (Signed) Quiroz. Camilo Contreras, A. E. Podilla, José Ma. Martinez.

In continuation, appeared citizen Paz Gurrola, whom I certify I know, and who is one of the persons alluded to in the foregoing proceedings, he was sworn to speak the truth in regard to any questions put to him; he was accordingly asked: are you acquainted with the circumstances of the arrest of the American Alfred A. Green, by Judge Camilo Perez, in this place? State what took place in relation to that affair: he replied, it is true that the aforesaid magistrate placed the American alluded to in the prison of this place, and the cause of the arrest was an act of disrespect committed towards the authority of Judge Camilo Perez, who required him to pay an amount which he owed for the care of one of his animals.

Being asked: Do you know the cause for which the aforesaid Green was expelled from the mine of San Luis? He replied, that he knows it from report and the cause was that said mine was reported against by Messrs. Laveaga as being in ruins, and that proceeding in the case having been submitted before a competent authority, judgment was pronounced in favor of the informers.

Being asked: Do you know whether any authority, or assemblages of people in Tayoltita, made hostile demonstrations and attacked the property of the company? He replied, that it is not true that attacks had been made upon any interests of the Abra Company, either by the authorities or by private parties.

Being asked: Do you know whether D. Guadalupe Soto had taken away any quantities of ore from any of the Abra mines? He knew nothing of it, even by report.

Being asked: Do you know whether the people of the Abra Company, at Tayoltita, have been molested by the authorities and the people of the village and prevented by them from working at their mines? He replied, that he knows nothing about this; that what he knows from common report is, that the destruction of that establishment was owing to the fact that their employees, which were both numerous and
170 useless, consumed a large amount of money for their wages, and that being subsequently in want of means they disposed of the furniture, even to the accoutrements of the animals, which deponent had bought, and that if the large accumulation of rocks, denominated ores from their mines, by the company, was not disposed of, it was because they were not even worth the cost of crushing.

Being asked: Do you know if the superintendent of the company of Tayoltita was arrested in this mining district? State the fact, and what was the cause? He replied, that he knows nothing about it, even from report; that this is what he can say with truth, all of which he affirmed and ratified. On this deposition being read

to him, he added that his name is as above stated; that he is a bachelor; thirty years of age; a merchant, and a resident of this neighborhood.

Signed before me and my attesting witnesses. (Signed,) Cipriano Quiroz, Paz Gurrola, A. M. Cordoban, A. Gil Ruiz.

On the same day, appeared citizen Martin Delgado, whom I certify I know; he was sworn to speak the truth in regard to questions put to him, and being impressed with this obligation, he was asked—Do you know if the American, Alfred A. Green, was imprisoned in this place, and what was the cause of such imprisonment?—he replied. It is true that he was imprisoned by order of Judge Camilo Perez, and the cause was that the latter having exacted from him payment of a debt for which he was sued, he was guilty of want of respect to the court.

Being asked: Do you know if said Green was expelled from the mine of San Luis? He replied, that the aforesaid mine was taken away from Green, on account of a denunciation which the licentiate Rodrigo Duran made against it, before the government of the State, as the representative of the house of Laveaga, which denunciation was founded on the fact, that the mine was deserted and in ruins, and that superior authority forwarded the denunciation to the president of this municipality, which office was then filled by deponent, on account of the suspension of the supreme civil authority, Dn. Arcadio Laveaga, in order that the condition of the mine might be inquired into by an expert. These proceedings having been complied with, as well as those of publication by common crier, Alfred Green made opposition, of which the Government was informed, and this superior authority, in view of the circumstances, directed the case to be referred to the judicial authority, which decided it.

Being asked: Do you know if any authority, or assemblage of mutinous people, have made attacks of any kind upon any property of the Abra Company? He replied, he does not know it even from report.

Being asked: Do you know whether Guadalupe Soto took away ores from any of the mines of the Abra Company? He replied that he did not know.

Being asked: Do you know if any military force, or authority of this district, have imposed any taxes upon said company? He replied that he knew that a military commander, Jesus Valdespino, had solicited from the inhabitants of this place, some assistance for his troops, and that it was willingly given to him by every resident of means, as in the case of deponent, who contributed a small portion.

Being asked: Do you know if the superintendent of the Abra Company was put under arrest at this place? He replied, that he did not know; that the above is the truth in regard to the questions put to him, which he affirmed and ratified.

171 This deposition being read to him, he added, that his name is as above stated; a bachelor; forty-four years of age; a merchant, and a resident of this place. Signed before me and my attesting witnesses. (Signed) Quiroz. Martin Delgado, A. E. Podilla, A. José Ma. Martinez.

San Dimas, August 5, 1872.—Appeared citizen Gil Ruiz, whom I certify I know; he was sworn to tell the truth in regard to what he might know about the questions put to him.

Being asked: Do you know anything about the imprisonment in this place of the American, Alfred A. Green, by Judge Camilo Perez, and what was the cause of it? He replied that he did not know from personal observation, but from hearsay; and that the cause was that said Green had refused to pay a debt for which he had been sued; in which refusal he had been wanting in respect towards the court.

Being asked: Do you know why the aforesaid Green was expelled from the mine of San Luis? He replied that this mine had been denounced by the house of Messrs. Laveaga as in ruins.

Being asked: Do you know if any authority or mutinous assemblage of the people of Tayoltita have made any attacks upon the property of the Abra company? He replied that he can say nothing with certainty about what took place in Tayoltita. That this is all he can say with truth, which he affirmed and ratified. This deposition being read to him, he added that his name is as above stated; that he is married; forty-six years of age; a tin-worker by trade, and a resident of this neighborhood. Signed before me and my attesting witnesses. I certify. (Signed) Quiroz, Gil Ruiz, A. E. Podilla, A. José Ma. Martinez.

At Dimas, August 6, 1872, appeared Guadalupe Soto, who was summoned in consequence of allusions made to him in the deposition of Bartolo Rodriguez, page 16. He was sworn to tell the truth in regard to questions put to him, and, being impressed with this obligation, he was asked, Are you one of those whom the American styled General Alonzo W. Adams, in company of Mr. Dana, called upon at Tayoltita for the purpose of inducing you to make depositions in regard to damages sustained by the Abra company? He replied that it is true that he was one of those who, together with Bartolo Rodriguez and Aquilino Calderon, came from Tayoltita to this place at the

request of Adams to make depositions in regard to injuries sustained by the Abra company; that for this service the aforesaid parties were promised two dollars per day, and deponent was promised an animal to ride upon and a reward; that being in this place, Adams, foreseeing that the deposition of deponent would not be favorable, did not wish him to testify, and being displeased he took away the animal from him, and did not pay him one cent of the gratuity promised.

Being asked: Do you know that Judge Anastasio Milan refused to take depositions at the request of Adams concerning injuries sustained by the Abra company? State if this be true, and what was the cause of the refusal? He replied that Judge Milan did not refuse to take the depositions of Bartolo Rodriguez and Aquilino Calderon, seeing that they were examined with the exception of deponent, because Adams did not wish it; that this is what he can say with truth in regard to the questions put to him, which he affirmed and ratified. This deposition being read to him he signed it before me and my attesting witnesses. I certify. In signing he added that his name is as above stated; that he is a married man, a tailor, and a resident of this place. (Signed) Quiroz, Guadalupe Soto, A. José Ma. Martinez.

172 First conciliatory court of first instance of San Dimas.—Among the inquiries ordered to be instituted by the prosecuting attorney of the Government, relative to American claims against Mexico, there is one item which reads literally as follows:

It is stated that Mr. Exall, superintendent of the Abra company, was imprisoned in that mining district. Be pleased to find out whether, in that court or among the archives of the executive bureau, there is any notice or data of that arrest and of the causes which led to it.

I enclose it to you for the purpose to be attained in that office.

Independence and liberty. San Dimas, August 5, 1872. (Signed) Cipriano Quiros, citizen, chief of the civil service of this district.

San Dimas, August 6, 1872. This office having been fully informed of the contents of the foregoing note, I have to inform you, in reply, that touching the point alluded to in your note, there does not exist in this office any data, nor any knowledge, that the person alluded to has been imprisoned in this mineral district.

Independence and Liberty San Dimas, August 6, 1872. (Signed,) Arcadio Laveaga. (Gefe Politico.)

At San Dimas, August 8, 1872, appeared C. Dionisio Gutierrez, whom I certify I know, mentioned in the deposition of Doña Cecilia Jimenez, (page 15,) being sworn according to law to speak the truth in regard to questions put to him—

Being asked, Do you know who were the persons that made depositions before Judge Anastasio Milan, relative to an inquiry instituted by the American citizen, styled General Adams, for the purpose of ascertaining the injuries sustained by the Abra Company? He replied, that the persons he remembers to have made depositions, were the citizens Bartolo Rodriguez and Aquilino Calderon.

Being asked, Do you know if Judge Anastasio Milan refused to take any depositions at the request of the American, Adams? He replied that, at that time, this American requested Citizen Milan to go with him to Tayoltita, to enter into certain proceedings relative to his claim; and Mr. Milan having done so, he took deponent along with him, who being in Tayoltita, noticed that the aforesaid American, Adams, was taking depositions from some of the laborers, by himself, and without the intervention of the authority of Mr. Milan, taking down said declarations with pencil, on loose pieces of paper; that subsequently, in view of the fact that the authority of Mr. Milan had not been consulted in the least, the latter came to the conclusion that deponent and himself should come away from Tayoltita; that after the expiration of a few days, the aforesaid American returned to this mining district, and called at the house of deponent, requesting the latter to write down something for him, in order that Judge Milan might credit what he had written down in pencil, in Tayoltita; that Judge Milan, in view of these solicitations, summoned those deponents or individuals alluded to by Adams, and these being examined, the result was altogether different from what Adams had pretended, which caused so much annoyance to the latter that he left this mining district; that the above is the truth, and what he remembers at present, which he affirmed and ratified. This deposition being read to him, he added, that his name is as above stated; that he is married; thirty-six years of age; and a resident of this neighborhood. Signed before me and my attesting witnesses. I certify. (Signed,) Cipriano Quiroz, Dionisio Gutierrez, A. E. Podilla, A. José Ma. Martinez.

173 San Dimas, August 13, 1872. There being no other persons to be examined about the foregoing depositions, these proceedings are considered as ended; consequently, they will be forwarded to the prosecuting attorney of the Government. The judge of the first conciliatory court and of 1st instance thus orders it, and signs before those in attendance. (Signed,) Cipriano Quiroz, A. E. Podilla, A. José Ma. Martinez.

On the same day, these proceedings, amounting to twenty-seven folios, were transmitted. I note the same for evidence.

(Signatures)

Compared. True copy. Mexico, November 12, 1872.

(Signed)

JUAN DE DIOS ARIAS,
Chief Clerk.

EXHIBIT No. 4, (1872.)

(Translated.)

To the Judge of the District :

The attorney of this district, before you, says: That, by order of the Minister of Foreign Affairs, we are taking some information that can be used for the defence of the Republic, against the claim that Americans are making on behalf of the company that owned the mines of the Abra, in the district of San Dimas; and as the statements of the licenciado Jesus Torrez, and of Francisco Acosta, who were neighbors of that Mineral, may be useful to the object, the subscriber begs that you ask to appear the two persons mentioned, and to examine them in due form, making the following questions: To the first, if the annexed letter is written by him, and if he will affirm and ratify it in all that it contains? And to the second, to whom you will show the same letter, if he knows, of his own knowledge, if all the facts embraced in said letter are true? After this is done, you will please send the original to the subscriber, to be transmitted to the said Ministry. Durango, July 31st, 1872. (Signed) J. M. Hernandez.

Durango, July 30th, 1872. To the Senor Licenciado José M. Hernandez, present. Dear Sir: The Abra mine, in the Mineral of Tayoltita, in the district of San Dimas, has been known so long, that Humboldt alluded to it in his history on the mines of Mexico; that it was denounced by, and legally became the property of some American citizens, in the year 1863, after having lain idle and abandoned for many years; that these Americans offered a Spaniard, named Juan Castillo de Valle, the sum of \$50,000 for the "Luz" and Rosario mines, the only ones that were worked at that time, and agreed to make the offer good, provided they should succeed in forming a company in the United States; that they afterward returned and bought the mines, in the price as before stated, and gave to the enterprise the name of "La Abra;" that on account of the large price, as it was considered, which had been paid for said property, the transaction came to be widely known, and excited public attention, not only in San Dimas, but also in the capital of Durango; that I, who have lived about ten years in the said district of San Dimas, and well informed in regard to said mines, and knowing that they only yielded from eighty to a hundred *cargas* of ore per month, and being well aware that the said D. Juan Castillo had been working them for ten years without any profit whatever, could not help but show that said Americans had been away for the purpose of deceiving the capitalists of the United States, in order to carry into effect a profitable speculation for themselves; that this is really the truth of the business I was convinced from the movements of said Americans themselves, for they did not go to work in the mines in a regular way, but rather failed to observe the smallest details usually taken into account in the working of mines; that their first operation was to pile up a lot of *tepetate*, or rock that does not yield silver, to the amount of from ten to fourteen thousand *cargas*, which they denominated ore; that this was heaped up and covered over with about three or four hundred *cargas* of real ore in the hacienda of Tayoltita, and all of it designated as ore by them, in order that it might be seen by an agent, or commissioner who came from the United States for the purpose of examining into the enterprise on behalf of the company in that country; that such being the fact, it afterwards turned out that the ore failed to yield as much silver as had been calculated upon, which fact naturally gave rise to the supposition that they had been robbed by their employees, with the knowledge of the authorities, which is entirely false, as can be fully substantiated by going to the hacienda of Tayoltita, where the pile of rock alluded to can still be seen, without any one taking the slightest notice of it; that the foregoing is all the information I can give you in answer to your letter of this date; that D. Francisco Acosta, of this city, is perfectly well informed in regard to this matter, as also D. Juan Castillo, as well as D. Miguel and D. Arcadio Laveaga, D. M. Delgado, and D. Camilo Contreras, of San Dimas, and finally all the residents of that place.

I am, &c.,
(Signed)

JESUS TORRES.

DURANGO, July 31st, 1872.

On the day and year first above written, Francisco Acosta was examined before the aforesaid Juez de Paz, Gerónimo Lido, having been sworn according to law, says, as to his generalities, that his name is as expressed; that he is forty-seven years of age, married, and a merchant of this place. Being asked if the matters are true which

Jesus Torres refers to in his letter which is now exhibited to view, says that the statement made in the foregoing letter now presented before him is an exact account of the particulars of the transaction to which it alludes. Signed and confirmed before me, the judge.

(Signed)

"

GERONIMO LIDO,
FRANCISCO ACOSTA,
JUAN B. ARELLANO, Sec'y.

Jesus Torres was then affirmed according to law, and said as to his generalities, that his name is as stated, thirty-nine years of age, married, an attorney of this place. Being asked if it is his signature which appears in the letter which is now presented to view, and if he affirms and ratifies in full its contents, answers that it is his signature, and that he reaffirms and ratifies its contents. Wherewith he concludes the present, which he signs with me, the judge, who certifies.

(Signed)

"

GERONIMO LIDO,
JESUS TORRES,
JUAN B. ARELLANO, Sec'y.

DURANGO, July 31, 1872.

These examinations being concluded are returned to the district attorney.

(Signed,)

"

LIDO.
ARELLANO.

It is a copy. Mexico, November 4, 1872.

JUAN DE D. ARIAS, Ch. Clk.

175

Deposition of Don Juan Castillo de Valle.

EXHIBIT No. 1, (1872.)

[American section.]

[Translation.]

Mexican Republic—Second class—For the years 1870 and 1871.—For criminal proceedings instituted before all the courts in the Republic.—Good for the years 1872 and 1873. J. Torrea—A flourish. J. M. Flores Caro—A flourish. To the district judge. The undersigned, prosecuting attorney, comes before you and represents, that he has been ordered by the department of relations, under date of the 3d instant, to promote before you and amplify the investigation made before that court, and the depositions of licenciado Don Jesus Torres, and Don Francisco Acosta. You will, therefore, be pleased to examine, in due form, Don Juan Castillo del Valle, in regard to the interrogatories below, as well as all other persons who may be mentioned by him, in order that they may state the reasons why they are acquainted with some, or all of the facts referred to in said interrogatories. The undersigned also prays, that as soon as the proceedings are ended, the original record thereof be delivered to him, to be sent to the department. Durango September 24th, 1872. (Signed) José Maria Hernandez.

Interrogatories.

1st. State your name, age, occupation, and residence.

2d. If you have been a resident of San Dimas, state in what year you changed your residence?

3d. State whether you are acquainted with the mine called La Abra, in the mining district of Tayoltita.

4th. State whether you know that, finding said mine entirely abandoned, it was denounced by some Americans, in the year 1863; and whether it was confirmed to them, in accordance with the branch of the law governing mining operations? State also, whether you know the names of the parties to whom it was thus confirmed, or that of the principal one of them?

5th. State, if it is true, that these same Americans, then being owners of the Abra mine, offered to buy from the deponent the mines called "La Luz," and the "Rosario," which were then being worked by said deponent, and that, to carry said offer into effect, they represented that they were going to organize a company in the United States?

6th. State, if it is true, that, after the lapse of some considerable time, these same Americans returned to San Dimas, closed the bargain, and, by paying the price agreed upon, became owners of the "Abra enterprise," and state also, what was the price he received as the result of such contract?

7th. State whether it is true, that the said mines only yielded from eighty to a hundred cargass of ore monthly; whether, in ten years that the deponent worked said

mines, he ever obtained ordinary profits; and whether, in his judgment, from all the circumstances attending the transaction, the Americans in reality made a speculation upon the credulity of these who constituted the company in the United States, by representing the acquisition of said mines as of great advantage to them, when in reality no profit arose from them?

8th. State whether you can positively affirm that the Americans did not work the mines in a proper manner, failing even to observe the most common practices and customs, and that on the contrary the only thing they endeavored to do was to pile up a large heap of from ten to fourteen thousand cargas of tepetate, or rock, entirely destitute of silver, gold or any other value, and to which material they applied the name of ore, without its being such; state also if it be true that they covered over this immense heap of unproductive rock, with a layer of from three to four hundred cargas of real ore, and left the whole of this large pile of rock thus covered in the hacienda of Tayoltita?

9th. State whether you know that the aforesaid quantity of rock was thus disposed by the Americans, so that it might be seen by a commissioner that was sent to San Dimas by the company which had started the enterprise?

10th. State also whether you can certify that, upon commencing to beneficiate this heap of rock, it naturally turned out that no silver could be realized therefrom, and that then the Americans, in order to conceal their fraud, circulated the story that the ore had been robbed by the workmen, with the toleration of the authorities, which is a falsehood so apparent that it can be proven from the fact that this large heap of ore still remains, without any one thinking enough of it to disturb it?

11th. State, finally, what persons, resident in this city, are informed and can testify in regard to any or all of the acts referred to in the preceding interrogatories?

Durango, same date.

(Signed)

HERNANDEZ.

Proceed to take the depositions as solicited.

(Signed)

DURANGO, September 24th, 1872.

LIDO. F. B. ARELLANO, Secretary.

The prosecuting attorney was notified, when he acknowledged service.

(Signed)

HERNANDEZ.

ARELLANO.

On the 26th of the same month, personally appeared D. Juan Castillo del Valle, who, upon being sworn according to law, was examined on the interrogatories of the prosecuting attorney, and answered to the—

1st. That his name is already stated; is 49 years of age; married; a merchant, and a resident of this city.

2d. That he resided in San Dimas, and that he changed his residence in September, 1865, to settle in this capital city, after his return to Europe.

3d. He made answer in the affirmative.

4th. That it is true, and that although he does not recollect the names of all the owners, he remembers that those of Thomas F. Bartohlow and David J. Garth, were among the principal ones.

5th. That it is also true.

5th. That he received as the price of the "Luz," "Rosario," "Cristo," "Ynocentes," and "Arrayon" mines, with the hacienda, for beneficiating ores, situated in the mining district of Tayoltita, called "San Nicolas," the sum of \$50,000, and that the Americans, as expressed in the interrogatory, added these mines to the Abra company, or enterprise.

7th. That the business formerly established by the respondent produced from eighty to one hundred cargas, and at some times as high as two hundred cargas a month, but that it never was a business productive of large gains, and only yielded enough to enable the mines to be kept in such condition as to make them salable to him;

177 that in regard to what is contained in the remainder of the interrogatory, he has heard various stories, generally unfavorable to the reputation of the Americans who purchased the mines, but that he knows nothing in regard to them of his own personal experience, for the reason that he did not return to Tayoltita, and for other different causes.

8th. That he has heard that it was so.

9th. That he has also heard it stated.

10th. That he knows from what has been said by the public in general that no robberies of ore took place, but that the Americans pretended that such crimes had been committed for the purpose of covering their operations, and that he insists that it be taken into consideration that in regard to this he does not certify to anything from observation.

11th. That the licentiate, D. Jesus Torres, and D. Francisco Acosta, can testify in regard to the acts referred to in the interrogatories.

In this manner the present proceedings were concluded, which, after having been read to him, the deponent certified to and signed with the judge, before me. I certify.

(Signed)

GERONIMO LIDO.
JUAN CASTILLO DEL VALLE.
JUAN B. ARELLANO,
Secretary.

DURANGO, *Sept. 26th, 1872.*

Return to the prosecuting attorney.

(Signed)

LIDO.
ARELLANO.

It is a copy.

(Signed)

MEXICO, *February 13, 1873.*
[Illegible.] TRANSLATOR.

[Translation.]

"EXHIBIT NO. 2."

1872. Court of First Instance, on the Bench of San Dimas.

Depositions of witnesses examined by order of the prosecuting attorney of the government, of the circuit court of Durango, in regard to the injurious acts against the Abra enterprise, in Tayoltita, belonging to the American company.

Office of the prosecuting attorney of the Circuit Court of Durango.

By order of the ministry of foreign relations, of date the 3d instant, the taking of depositions, which has been commenced, is to be gone on with, relative to the Abra Mining Company.

You will, therefore, be pleased to examine, without delay, and with all due form, Messrs. D. Miguel, and D. Arcadio Laveaga, D. Martin Delegado, D. Camilo Contreras, and D. N. Manjarrez, together with some others of that district, who may be competent to answer the annexed interrogatories:

As soon as the proceedings shall have been concluded, please transmit me the originals of the same, without delay, in obedience to the order of the ministry, so that they may be sent on to the said bureau.

Independence and liberty. Durango, September 24th, 1872. (Signed) José M. Hernandez.

The judge of the 1st instance of the district of San Dimas.

178

Interrogatories.

1st. State your name, age, occupation, and residence.

2d. State in what year you changed your residence.

3d. State whether you are acquainted with the Abra mine, in the mineral district of Tayoltita.

4th. Are you sure that, said mine having been entirely abandoned for many years, it was denounced by some Americans, in 1863, to whom it was confirmed, in accordance with the laws in relation to mining; what were the names of those by whom it was denounced, or at least that of the principal one of them?

5th. State whether it was true that the said Americans, who were then owners of the said Abra mine, offered to purchase from the deponent, the mines called "Luz" and "Rosario," which were then being worked by the said deponent; that they pretended that in order to carry out the contract, they were going to organize a company in the United States?

6th. If it is true, that after the lapse of some little time, they returned to San Dimas, closed the contract, and paid the deponent the price that had been agreed upon, and that being then the owners of the said mines, they gave to the property the name of the "Abra?"

What was the price the deponent received by virtue of said contract?

7th. If it is true that the said enterprise only produced from 80 to 100 cargass of ore monthly; if in ten years that deponent worked said mines he never obtained regular profits therefrom, and if, in his judgment, taking all the circumstances relative to this operation, the said Americans speculated upon the credulity of those who constituted the company in the United States, by making it appear to them that the

acquisition of said mines was of great importance, when, in reality, they obtained nothing from the same.

8th. State whether you know, positively, that said Americans did not work the said mines in the customary manner, not even according to the usages and customs most known and practiced, and whether, on the contrary, if they did not get out a large lot of ten or fourteen thousand cargass of pure tetepate, or rock that absolutely contained no silver, gold, or other substance of value, and to which rock they gave the name of ore, which it was not; state, also, if it is true that they covered over this immense heap of unproductive rock with a layer of three or four hundred cargass of real ore, and that this large amount of rock thus covered was heaped up by them in the hacienda of Tayoltita?

9th. State whether you know that this heap thus prepared was prepared by the Americans, in order that it might be seen by an agent sent to San Dimas, by the company established to carry on the said enterprise?

10th. State also, if you know that, naturally enough, when this pile of rock came to be put through the process of beneficiation, it was found to be entirely destitute of silver, and that then the Americans, in order to hide their fraud, gave it out that the operatives had stolen the ore, with the toleration of the authorities, the proof of which is so false that the said heap of rock still remains, without being disturbed by any one?

11th. State, finally, what persons that may be found in this city that are competent to testify in regard to all, or some of the acts referred to in these interrogatories?

DURANGO, September 24th, 1872.

179

SAN DIMAS, October 4th, 1872.

On account of having received the order of the prosecuting attorney of the circuit court of this State, together with the accompanying interrogatories, of date the 24th September last, I acknowledge the receipt thereof, and proceed to take the depositions referred to therein, summoning to that end, the gentlemen, Miguel and Arcadio Laveaga, Martin Delgado, Camilo Contreras, and Ygnacio Manjarrez, to whom reference is made in the said order. The judge of first instance, on the bench of this district, thus decrees, orders, and signs before the assistant witnesses.

(Signed)—Cipriano Quiroz de la V., A. E. Padilla, Manuel Torrero.

Summons was served on the said persons, and certified accordingly.

SAN DIMAS, October 9th, 1872.

Deposition of Ygnacio Manjarrez.

Ygnacio Manjarrez being present, and to whom I certify as being known to me, was sworn to tell the truth in regard to all he might know, or that might be asked of him, and upon being interrogated in the order of the preceding questions, he made answer to the—

1st. That his name is as has been stated, unmarried, of age, a merchant and miner by occupation, and a resident of this mineral district for some years.

2d. That he has resided in this district, but changed his residence in February, 1867, removing from Tayoltita to Buena Vista, in this State.

3d. That he is acquainted with the Abra mine, in the district of Tayoltita.

4th. That it is true that the said mine, being abandoned, was denounced by some Americans, the names of which he does not recollect, and was confirmed to them in accordance with the laws applicable to such transactions.

5th. That these Americans, being then owners of the Abra mines, went to the United States, and others came back, probably to represent them; and that in connection with these last mentioned, happened, as he will certify in the following:

6th. That after some time had passed, one of the Americans who went back returned, in company with others, among whom were one Thomas J. Bartholow and one David J. Garth, and then, in 1865, contracted for the mines called Rosario, Luz, Arayan, and Ynocentes, with D. Juan Castillo, partner of the deponent, in the sum of \$50,000, the writings regarding which contract were drawn in Mazatlan, and following which the said sum was paid, they thus remaining owners of said mines, which were named by them the "Abra Negociation."

7th. That it is true that this enterprise produced monthly from eighty to an hundred cargass of ore—all rubbish; that in ten years that the deponent and Castillo worked, they never made more than enough to economically carry on the works which they had begun; that in his judgment he believes that the Americans speculated upon the credulity of those who constituted the company in the United States, by representing to them that the acquisition of said property was of great importance, when in reality it was only limited as regards its productiveness, as he has stated.

180 8th. That he knows that the Americans engaged in the working of the Abra mining property did not carry on the same in accordance with the ordinary customs and usages; that they took out a large pile of rock, of a little more than three thousand *cargas*, distinguishing the same by dividing it into first, second, and third qualities, but which was good for nothing, as it was nothing but pure *tepetate*, with here and there a lump of good ore; that having obtained this heap of rock, he knows that said Americans made an assay, but does not know where, of some of the rock, which they called ore, and that, according to the result, it yielded from three to four ounces of silver to the *carga*; that upon this showing they put Mexican operatives to work at sorting out the ore in a large pile, which they distinguished as first-class ore; that they thus got together about sixty *cargas*, which they benefited, and which would not pay, as it was publicly said, not even the expense of the labor of the operatives employed in assorting it.

9th. That he does not know whether they covered the *tepetate* which they had heaped up with the ore or not.

10th. That it is not true that the miners stole the ore, since the same is so poor that up to this time the heap left by those of the company still remains without there being any one to take not even a single piece of it, notwithstanding it is left alone, with no one to look out for it.

11th. That D. Juan Castillo, who lives in Durango, is able to give something of information concerning the points upon which the deponent has testified; that this is all that in truth he can say. Whereupon, after this, his declaration had been read to him, he signed and ratified the same with me and the assistant witnesses. I certify. (Signed,) Quiroz de la V., Ygnacio Manjarrez, E. Padilla, Manuel Torrero. San Dimas, Oct. 10th, 1872. Emilio Contreras, being known to me present, and having been sworn to tell the truth in regard to all he might be interrogated as to what he might know, he made answer to the preceding interrogatories, in their respective order, and said, to the—

1st. That his name is as has been stated; unmarried; of age; and a resident of this place.

2d. That during all the time that he has lived in this place he has not changed his residence.

3d. That he is not acquainted with the mine called the Abra, situated in the mineral district of Tayoltita.

Following this, the deponent having manifested that he knew nothing relative to the Abra enterprise, belonging to the Americans in Tayoltita, the preceding interrogatories were read to him in detail, and having become duly informed in regard to all of them, he said in reply to only the—

8th. That he knew, from what he heard publicly stated, that the works begun in Tayoltita by the Americans, were not conducted by them, not even with regard to the most ordinary and practiced customs; that the foregoing is all he knows concerning the interrogatories that have been propounded to him, and after his declaration had been read to him, he certified to its correctness, and signed the same with me and the assistant witnesses. (Signed,) Quiroz de la V., Camilo Contreras, E. Padilla, Manuel Torrero.

SAN DIMAS, Oct. 11th, 1872.

Martin Delgado, being present and duly sworn, and being personally known to me, then expressed his willingness to testify to the truth in regard to all he might know and be interrogated, and being questioned upon the preceding interrogatories, he made answer to the—

181 1st. That his name is as has been stated; is unmarried; of age; a merchant by occupation, and a resident of this place, and has been for several years.

2d. That he has not changed his residence since he first moved in this place.

3d. That he is not acquainted with the mine called Abra, in Tayoltita.

Having fully informed him in regard to all the matter contained in all the rest of the said preceding interrogatories, so that he might with more propriety make an answer thereto, but he only made answer to the

8th. That he knows by what has been publicly said, that the Americans, comprising the company in Tayoltita, piled up a large heap of rock which was not ore, and which still remains, because it is worthless, and does not contain silver; that the preceding is what he can truthfully assert.

Whereupon, after it had been read to him, he signed and certified to this, his declaration with me, and the assistants to my office. I certify. (Signed) Cipriano Quiroz de la V., Martin Delgado, E. Padilla, Manuel Torrero.

SAN DIMAS, October 12th, 1872.

Miguel Laveaga, being sworn, and promising under oath to tell the truth in regard to what he might know concerning the matters embodied in the preceding interrogatories, then made answer, as follows, to the

1st. That his name is as has been stated, is a widower, of age, a miner by occupation, and has been a resident of this mining district for several years.

3d. That he has made temporary changes in his place of residence.

3d. That he is very well acquainted with the mine called the Abra, in the mineral district of Tayoltita.

4th. That, finding said mine abandoned, it was denounced by some Americans, of whom he does not recollect the names, nor does he remember at what time, and that the same was confirmed to them according to the laws governing such operations.

5th. That he knows, from public talk, that these Americans, then owners of the Abra, bought the Luz, Rosario, and other mines, with the hacienda, from D. Juan Castillo, for the sum of \$50,000.

6th. That he does not know who the Americans were that made the contract with Castillo, but he knows that they paid for the property and gave it the name of the "Abra Negociation."

7th. That he is not informed whether this property may have yielded from eighty to a hundred cargass of ore monthly or not; that it is very probable that the Americans practiced deception in regard to this enterprise, those constituting the company in the United States taking part therein, under the belief that said enterprise was of great importance, as it must have been represented to them, the products of which being in reality quite indifferent.

8th. That he knows from what has been generally said that the operations commenced by said Americans in the Abra enterprise were not carried on in the ordinary way, or as is the practice in general; that he also knows, and it is notorious, that they piled up a large lot of *tepetate*, instead of ore, which did not contain either gold or silver, and which is proven by the fact that they assorted a quantity from said ore of the best, beneficiated it, and found that it would not pay for the work of thus assorting it by the laborers; that they afterwards left, leaving the said business in charge of the American or Englishman, D. Santiago Granger, who gave D. 182 Guadalupe Soto permission to beneficiate said ore, or *tepetate*, thus piled up, upon what terms he was not aware, the result of which was that said Soto abandoned the pulp that he had ground from said rock; and that finally that said heap of rock still remains without a single piece of it being touched, as it is worthless.

9th. That he knows nothing of the act in regard to covering the pile of worthless rock with ore.

10th. That he has already said that the ore, or pile of worthless rock aforesaid, did not produce silver; that it is false that, as has been said, the operatives stole the ore, and much less true that the authorities tolerated such robbery.

11th. That D. Juan Castillo is to be found in Durango, who can give some information concerning the matters about which the deponent has testified; and that D. Nicanor Perez is here, who is another that ought to know something also, on account of his having lived in Tayoltita at the time; that the preceding is all that he in truth can say in regard to what has been asked of him. Whereupon this declaration was read to him and signed by him, and acknowledged with me and the assistant witnesses of this, my office. I certify. (Signed) Quiroz de la V, E. Padilla, Manuel Torrero.

In continuation, appeared citizen Arcadio Laveaga, whom I certify I know; he was sworn to speak the truth as to what he might know in regard to the questions put to him, and being questioned after the manner of the foregoing interrogatory, he said, in answer to the first point, that his name is as above stated; a bachelor; of age; a miner by trade, and a resident of this mining district for many years.

To the second point, he replied, that during the time of his stay in this neighborhood, from his early youth, he did not change his residence.

To the third point, he replied, that he does not know the Abra mine, but that he does know that of Tayoltita. Subsequently, the deponent having declared his ignorance of what had occurred at the Abra establishment, to reply to every point contained in the interrogatory, everything was read to him, and having full knowledge of the contents, he said, that he knows nothing from personal observation; that what he knows from hearsay and public rumor is, that from the ores which had been gathered, they selected the best, smelted them, and the result was not good, for which reason they quitted the business; moreover, he knows, in the same way, that it is not true that the company was robbed of ores, and much less that any authority had acquiesced in such robbery; that this is all he can say with truth, which he affirmed.

This deposition having been read to him, he signed it before me, and those in attendance. (Signed, —Cipriano Quiroz, Arcadio Laveaga, A. E. Padilla, A. Manuel Torrero.

Under the same date, having been informed in regard to this matter, that the citizens, Agasito Arnold, Bartolo Rodriguez, and Nepomuceno Manjarrez, can testify knowingly, concerning the points embraced in the foregoing investigation, in con-

sequence of having been at the establishment of the Abra, let them be summoned and examined on the subject.

The judge having charge of these proceedings has so directed, ordered and signed. (Signed,)—Quiros, A. E. Pardillo, A. Manuel Torrero.

San Dimas, October 13, 1872, appeared, Agasito Arnold, whom I certify I know; he was sworn in due form to tell the truth as to anything he might know about the questions put to him, and being interrogated after the foregoing manner, he said, in reply to the first question, that his name is as above stated; that he is of age, and a bachelor; a native of this mining district.

To the second question, he replied, that he has changed his residence for short periods of time.

In reply to the third, he said, that he does not know the Abra mine, but that he knew the company of Americans in Tayoltita, because he was in their service for four months—until they left.

To the fourth, he replied, that he does not know whether the mine of the Abra was condemned by the Americans, who undertook to work the mines there.

To the fifth, he replied, that he knew from common report that those Americans purchased some mines in Tayoltita, from D. Juan Castillo.

To the sixth he replied, that he knew, through the same channel, that they paid said Castillo for the mines he had sold them, the Americans becoming the proprietors of that establishment, to which they gave the name of the company of the Abra.

To the seventh he replied, that it is possible the mines of that company produced eighty or one hundred loads per month, not of ore, but of worthless rocks, (tepetate,) as it was *notorious* that such was the character of the yield they obtained; that it was also a matter of *public notoriety*, that the profits derived by Castillo from this business, were of small account; that deponent believes what was publicly said, that the Americans deceived themselves in regard to these mines, because, when they sought to make their purchase, they saw at the establishment of Castillo, in Tayoltita, a considerable quantity of silver, which proceeded from the small yield he obtained, and the remainder, from what he had purchased at these mines, and from Gavilanes.

To the eighth, he replied that, in his opinion, the Americans worked at Tayoltita in good order; that he is certain they gathered vast loads of tepetate, (worthless rocks,) which they called ore, classifying it in three qualities, first, second, and third; and he is not aware that this yield was covered by them with a coating of silver ore.

To the ninth, he replied, that he does not know that said yield was thus prepared, in order that some commissioner of the company might see it.

To the tenth, he replied, that it is true said Americans smelted some ore taken from the materials they gathered, and that they found very little silver; that it is not true that they were robbed, and much less that this was done by tolerance of the authorities; that it is true, that the worthless material, (tepetate,) which they excavated, still remains there to this day, and will remain, because it is useless; that this is what he can say with truth, in regard to the questions put to him, which he certified. This deposition, being read to him, he signed it before me and those in attendance. I certify. (Signed) Cipriano Quiros. Agasito Arriola, A. E. Padilla, A. Manuel Torrero.

San Dimas, October 14, 1872. Appeared C. Cepomuceno Manjarres, whom I certify I know; he was sworn to tell the truth as to what he might know in regard to questions put to him; and, being questioned after the manner of the preceding interrogatory, he said, in reply to the first question, that his name is as above stated; that he is of age, and married; a laborer; a native of the State of Sinaloa, and at present a resident of this mining district.

To the third he replied, that he does not know the Abra mine, situated in Tayoltita.

184 To the fourth, he replied, that he does not know whether said mine was condemned by the Americans who worked it last.

To the fifth, he replied, that in the month of June, 1865, he was in Tayoltita, at the establishment of D. Juan Castillo, and on that occasion several Americans came there, who were in treaty with said Castillo for the mines of that district, whose names, according to what I have heard, were, one, General Bartholow; another, Doctor Ardi, a brother of the latter; Mr. Garth, and Mr. Grifis, who were accompanied by many others.

To the sixth, he replied, that in the month of October, of the same year, deponent met said Castillo in Mazatlan, who said to him that the contract which was pending in Tayoltita with said Americans, had already been consummated, the latter paying him fifty thousand dollars for six or seven mines, which he sold to them, with the buildings used for smelting purposes.

To the seventh he replied: that he does not know the quantity of ore which is obtained monthly at that establishment; that Castillo made regular profits, in some of them, and in others he lost money, according to the costs of labor at the mines, and finally, that through economy, he kept up his business for ten years, owing to the excellence of his management, which enabled him to preserve it in good condition; that the Americans may possibly have been led into error in regard to their purchase, in consequence of the excitement which prevailed at the time on the subject of mining.

To the eighth he replied: that in the month of April, 1866, deponent returned once more to Tayoltita, where he remained until the month of February, 1867, a period when the works of the Americans were already established in the following manner: they were building houses on the premises without foundation, of a fragile character; in the mines the work was done in the same way; the miner who directed the works in the mines was an American; he was unacquainted with the business, and received an exorbitant salary. This same individual acted as overseer, and probably from ignorance, or from some other cause, he would not allow, according to common report, the ore to be separated from the worthless rock, (tepatete,) seeing that all that came out of the mine was crushed in the yard, and sent to the smelting houses, of which material there was a yield of more than three thousand loads, and not ten or fourteen thousand, as has been stated; the customary freight of thirty cents paid by the mine to the estate was increased by them to fifty cents; there were forty-seven Americans employed in the buildings, from partners, superintendent, carpenters, blacksmiths, and woodmen, who, besides their enormous wages, amounting from five to twelve dollars, consumed large sums of money for food at the provision store of the establishment.

To the ninth he said, that in the month of May, 1866, an American, called Colonel Lagnel, came there to take charge of the establishment of Tayoltita, and as soon as he had arrived, he forwarded a report to the company in the United States, in which he stated that he had found a great establishment on the margin of a beautiful river, with a large quantity of silver ore in the yard of the buildings; but a few days afterwards, having made himself acquainted with the state of things at the establishment, he saw that it was an accumulation of useless rocks, which were found there, and therefore he directed Bartolo Rodriguez to separate the silver ore from the rest; this having been done by that person, and the people who assisted him, the result was
 185 silver. All the rocks which were thrown aside still remain there to this day, without any portion of the same having been taken away by anybody, because they are useless. That if it has been asserted that they had been robbed of silver ore, it is not true, much less is it true that this was done by permission of the authorities.

That Colonel Lagnel, in view of the bad condition of affairs, reduced the expenses, beginning with the dismissal of the most expensive and useless people, and by substituting Americans; that the Mexican interpreter, D. Isidoro Servantes, having gone away, the colonel and his subordinates had some difficulty with the Mexican laborers, on account of demands on the part of the latter for the settlement of their accounts, which demands were met by denials that anything was due to them; and the claimants, in order to prove the justice of their demands, went in search of Servantes, and the latter having returned to Tayoltita, their accounts were settled, and then they were paid. This is what they call a conspiracy to rob them. That with the above statement, the tenth and eleventh points in the interrogatory are answered; all of which he affirmed. On this deposition being read to him, he signed it before me and those in attendance.

Signed—Quiroz, Juan Cepomuceno Manjarrez, A. E. Pudilla, A. Manuel Torrero.

SAN DIMAS, October 16, 1872.

Appeared C. Bartolo Rodriguez, whom I certify I know, being sworn to tell the truth in regard to questions put to him, &c., he replied to the first point, stating that his name is as above stated; that he is of age, and a married man, and a miner, with residence in this jurisdiction.

To the second: that he has not changed his residence.

To the third: that he knows the Abra mine, located at Tayoltita.

To the fourth: that he knows from hearsay that this mine was condemned as being deserted, and in ruins, against some Americans, whose names he does not remember, nor the date when this occurred.

To the fifth: that he knows that the Americans who were in treaty with D. Juan Castillo were not those who condemned the mine aforesaid, but if they were owners of the same, he does not know in what form. The mines contracted for were those named "Luz," "Rosario," "Arrayan," and "Ynocentes."

To the sixth: that these contracting Americans were those who devised and arranged the purchase, paying to Castillo, as he learned, fifty thousand dollars, which were offered for said mines and smelting houses, for which they became the proprietors of everything, giving the establishment the name of the "Abra Company."

To the seventh, that he does not know that this business was productive of eighty or a hundred loads of silver ore; that what he knew is that the mining operations were productive of much rubbish.

To the eighth, that being ore-cleaner at the mines he knows that the work there was conducted in an orderly manner; what occurred is, that by direction of the American miner, George C., who was overseer there, has collected all kinds of rocks, *michi, pesanos*, etc., which was sent to the receiving houses, and from that a yield was obtained of considerable amount; that he is not aware that this yield was covered over with true silver ore.

To the ninth, that he is not aware that said yield had been prepared in the above-mentioned manner.

186 To the tenth, that out of this accumulation of rocks, the deponent, by direction of the Colonel, superintendent, selected something like sixty loads, and part of this was smelted, and no silver could be found in it; that he does not know that they were robbed of silver ore, and much less that the authorities allowed it; that to the present day the rocks which deponent cast aside during the selection he made, as well as the ore which was thought to contain silver, and which was smelted, still remains; that the above is the truth in regard to the questions put to him, which he affirmed.

On the above deposition being read to him, he signed it before me, and those in attendance. (Signed,)—Quiroz, Bartoló Rodriguez, A. E. Padilla, A. Manuel Torrero. (Signatures.)

SAN DIMAS, October 17, 1872.

Let these proceedings be considered as concluded, and let them be transmitted to the prosecuting attorney of the circuit court. The judge of 1st instance, who subscribes, thus orders it, and signs.—Quiroz, A. E. Padilla, A. Manuel Torrero.

These proceedings were forwarded by this day's mail—October 27, of 1872.

(Signature.)

True copy. Mexico, February 24, 1873.

(Signed,)

JUAN DE D. ARIAS, *Chief Clerk.*

187

ADDITIONAL REBUTTING TESTIMONY.

UNITED STATES OF AMERICA

BY JOHN A. DIX, GOVERNOR OF THE STATE OF NEW YORK.

It is hereby certified, that George G. Herman was, on the day of the date of the annexed certificate, clerk of the county of Kings, in [STATE SEAL OF NEW YORK.] said State, and duly authorized to grant the same; that the same is in due form, and executed by the proper officer; that the seal affixed to said certificate is the seal of said county; that the signature thereto of the said clerk is in his proper handwriting, and is genuine; and that full faith and credit may and ought to be given to his official acts.

In testimony whereof, the great seal of the State is hereunto affixed.

Witness my hand, at the city of Albany, the fifteenth day of June, in the year of our Lord one thousand eight hundred and seventy-four.

(Signed,)

JOHN A. DIX.

Passed the secretary's office the 15th day of June, 1874.

(Signed,)

DEIDRICH WILLERS, Jr.,
Secretary of State.

In the matter of the claim of La Abra Silver Mining Company, against the Republic of Mexico.—Rebutting testimony.

Deposition of George C. Collins,

A witness on the part of said La Abra Silver Mining Company, taken before Hon. Calvin E. Pratt, a justice of the supreme court of the State of New York.

George C. Collins being duly sworn according to law, deposes and makes answers to the several interrogatories propounded to him, as follows, to wit:

Question 1. What is your name, age, residence, and occupation?

Answer. My name is George C. Collins; my place of residence is in the city of New York, in the State of New York, and my occupation is that of a wholesale tea merchant, doing business in said city.

Question 2. Have you given any evidence in this cause before; and, if yea, when, and before what court or authority?

Answer. Yes; I have made one deposition in this cause, and did so in the supreme court of the State of New York, before Calvin E. Pratt, a judge of that court, and, as nearly as I can recollect the time, in the fall of 1870.

Question 3. What officer, if any, are you, and have you been of "La Abra Silver Mining Company," the claimant in this cause?

Answer. I am, and have been since October 23d, 1866, the President of said company. Previous to that time I was Vice President of the company.

188 Question 4. The company's office is, and has been kept at what place, and where were its mines, hacienda, and property situate?

Answer. The company's office is, and always has been kept at the said city of New York, and its mines, hacienda, and property were situate at Tayolita, in the mineral district of San Dimas, in the State of Durango, in Mexico.

Question 5. What was the principal, or chief employee of the company who conducted their mining operations at their mines in Mexico, called?

Answer. Superintendent.

Question 6. How many superintendents have the company had, and what were their names?

Answer. Three only. The first was Thomas J. Bartholow; he was succeeded by Julian A. de Lagnel, who was appointed in March, and reached Mexico in May, 1866, and was superintendent only for a short time; and he, in turn, was succeeded by Charles H. Exall, who continued to be and was such superintendent at the time the company abandoned their said mines and property in March, 1868.

Question 7. State particularly whether James Granger (called also Santiago Granger,) was, or was not, ever a superintendent of said company?

Answer. No, he never was.

Question 8. State whether or not said company, at the time they abandoned their said mines, hacienda, and property, in March, 1868, gave or put, or at any time since have given or put the same, or any of them into the charge, or under the control of any person, or authorized any person to do so, or in any way directed or authorized the same, or any part of them to be used, leased, sold, or otherwise disposed of? State fully and especially with reference to James Granger.

Answer. The said company did not then, nor has it at any time since, placed their said mines, hacienda, and property, or any part of them in charge, or under the control of James Granger, or of any other person, nor authorized him or any person to do so, nor directed or authorized him or any person to sell, lease, use, or in any way to dispose of said mines, hacienda, and property, or any part of them, and if he, or any other person has exercised any charge or control over them, or any disposition thereof, such acts were wholly without any authority from said company, or of any authorized agent or attorney of the company, and have never been ratified or recognized by said company, nor by any authorized agent or attorney of said company.

Question 9. If said Charles H. Exall had attempted to confer upon said Granger, or any other person, any such power of the charge, or control over, or disposition of said mines, hacienda, and property, or any part of the same, what authority had he, if any, from the company, or from any attorney or agent of the company, for so doing?

Answer. None whatever.

Question 10. What has become of said mines, hacienda, and property?

Answer. From copies of Mexican records shown me, it appears that the company's mine "Rosario" was denounced by said James Granger, April 8th, 1871, and that he and a Mexican, named Francisco Torres, were put in possession of it by the legal authorities of the State of Durango, in Mexico, August 11, 1871, and I am informed and believe that the stamp mill and mining tools of said company have been all sold and leased out by the Mexican authorities of that district, and the same partially or
189 wholly worn out by use at the works of Mexican miners; and also that the other mines, and the hacienda, and reduction works of La Abra Company have, since

August, 1872, been denounced, and legal possession given of them by the Mexican authorities at Durango to the parties denouncing, and that the same are being worked by Mexicans successfully.

Question 11. State whether or not any person has accounted to said company for their said mines, hacienda, and property abandoned in March, 1868, or for any part thereof, subsequent to said abandonment, or has paid for the same, or paid anything on account of the same, or any part thereof?

Answer. No; no person has so accounted, or paid anything for, or on account of the same, or any part thereof.

Question 12. Where is said Superintendent Julian A. de Lagüel, and what reason, if any, exists for not having his deposition taken in this cause?

Answer. The company has made diligent inquiry to find him, for the purpose of obtaining his deposition as evidence in this cause, but they were unable to learn where he resided, or could be found, and do not know whether he is now living or not. The company was informed and believe that before the filing of the memorial in this cause, he went to the State of Florida, and afterward to South America, and then to China, but could get no definite information as to his whereabouts; for these reasons, his evidence could not be, and has not been, obtained on behalf of the claimant in this cause.

Question 13. Jesus Torres and Francisco Acosta, in their testimony given at Durango, in this cause, before Geronimo Lido, juez de paz, severally say, in terms or substance, that the company sent a commissioner or agent to Mexico to examine into the enterprise. Say whether this statement is true or not?

Answer. It is not true. Before the company was formed, Thomas J. Bartholow and David J. Garth, on behalf of themselves and the other gentlemen who subsequently formed the company, went to Mexico to examine and purchase the mines, but the company never sent out any commissioner, and had no occasion to do so. It had full confidence in its superintendents.

Question 14. Say whether or not said Bartholow and Garth made any false report to, or practiced any deception with regard to said mines, upon the gentlemen who formed said company, or upon said company, or its stockholders?

Answer. No; on the contrary, at the organization of the company they became, and ever since have been, among the largest of its stockholders, and have always warmly supported it, and readily advanced it money when required, and it is now largely indebted to Mr. Garth therefor.

Question 15. Are you the agent of said company, or of any person interested in the claim of said company against Mexico.

Answer. No; unless the fact that I am the president of said company can be considered as making me an agent for said company and its stockholders.

Question 16. Have you any interest, direct, contingent, or other wise, in the claim of said company against Mexico?

Answer. I am a stockholder of said company, and have lent it sundry sums of money, which remain unpaid, nor have I been paid anything for my services as president of the company, as I particularly stated in my previous deposition. Such interest in said claim as grows out of those facts, I have, but I have no other.

GEO. C. COLLINS.

190 Subscribed and sworn to before me, this twenty-third day of May, 1874.

C. E. PRATT, J. S. C.

UNITED STATES OF AMERICA, STATE OF NEW YORK,

County of Kings, City of Brooklyn, ss:

I, Calvin E. Pratt, a Justice of the supreme court of the State of New York, do hereby certify, that George C. Collins, whose deposition is herein above written, attended before me on the twenty-third day of May, 1874, at the county court house in the city of Brooklyn, in said county of Kings, and was publicly and duly sworn, according to the laws of the United States of America, and of the State of New York, to tell the truth, the whole truth, and nothing but the truth, in the above-entitled matter, and thereupon he deposed and testified as hereinbefore set forth, that said deposition was carefully read to said George C. Collins by me, and that he thereupon signed the same in my presence.

I do further certify that said deposition was taken by me in the city of Brooklyn, in the county of Kings, and State of New York, in the United States of America; that I am competent to take depositions by the laws of said State, and of the United States; that I have no interest in the claim to which the testimony of said George C. Collins relates, and that I am not the agent or attorney of said La Abra Silver Mining Company, claimants in the above-entitled cause, nor of any person having such interest.

I do further certify that said deposition was reduced to writing by Henry E. Med-

calf, in my presence, who has no interest, and is not the agent or attorney of any person having an interest in said claim.

And I do further certify that I know the said George C. Collins, the above-named affiant, as a man of good character for truth and veracity, and I hereby certify to the credibility of said George C. Collins, and that his deposition is entitled to full faith and credit.

Dated May 23d, 1874.

C. E. PRATT, J. S. C.

STATE OF NEW YORK, CITY OF BROOKLYN,

County of Kings, ss :

I, George G. Herman, clerk of the county of Kings, and clerk of the supreme court of the State of New York, in and for said county of Kings, (said court being a court of record,) do hereby certify that Calvin E. Pratt, whose name is subscribed to the foregoing deposition and certificate, and thereon severally written, was, at the time of taking such proof or deposition, and signing said certificate, a justice of the said supreme court of the State of New York, and has been continuously such justice since January 1st, A. D. 1870, and authorized to take such depositions and sign said certificate, and his acts as such justice are entitled to full faith and credit, and that said signatures of such justice are genuine.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said county and court, this twenty-fifth day of May, A. D. 1874.

[SEAL, KING'S COUNTY.]

GEORGE G. HERMAN, Clerk.

191 *Rebutting evidence In re La Abra Silver Mining Company versus the Republic of Mexico. Deposition of Charles H. Exall before the American and Mexican Claims Commission, Washington, D. C.*

UNITED STATES OF AMERICA, SOUTHERN DISTRICT AND STATE OF NEW YORK,
Office of United States Commissioner, City and County of New York, ss :

2 o'clock P. M., June 11, 1874, before me, Richard E. Stilwell, United States commissioner for the southern district of New York, personally appeared Charles H. Exall, who is known to me as the person here represented, and who having been introduced as a witness in behalf of claimant, and by me lawfully sworn to state the truth in answer to interrogatories suggested by counsel for claimant, and propounded by me, relating to the statements of witnesses for the defense in this cause, and confined solely to the rebuttal of the same, deposes and testifies as follows :

Question 1. What is your name, residence, and occupation ?

Answer. My name is Charles H. Exall ; my residence the city of New York, in the State of New York ; and my occupation, cashier of the stock broker's establishment and banking-house of Washburne and Thayer, No. 62 Broadway, in said city.

Question 2. Have you heretofore given any evidence in this cause ; and if yea, state how, where, when, and before what court or authority ?

Answer. I have. I was summoned in behalf of La Abra Silver Mining Company, the claimant, to testify as a witness in this cause, and pursuant to the summons, I appeared in the supreme court of the State of New York, at the court-house in the city of New York, Judge Barnard presiding, and gave my evidence before him by answers to questions propounded to me, and in form of a deposition signed by me, about December, 1869.

Question 3. From about September 11, 1866, to about March 20, 1868, what business were you engaged in, and where and what position, if any, did you hold ?

Answer. I was superintendent for said company, of their mines, hacienda works, and property at Tayoltita, in the mineral district of San Dimas, in the State of Durango, in Mexico, as I testified in my previous deposition.

Question 4. Who immediately preceded you as superintendent of said company's mines, hacienda, works, and property at Tayoltita, aforesaid, and what position, if any, did you hold under him, and where is he now ?

Answer. Colonel Julian A. De Lagüel preceded me as superintendent. I was his assistant superintendent. I can not say where he is, other than this : When I returned from Mexico to the city of New York, in the spring of 1868, I saw him in this city, which was then his headquarters. He was unmarried, I believe, and had no fixed or permanent residence. Soon afterwards he engaged in business which took him to the State of Florida, and I saw no more of him. I have been reliably informed and believe that he afterwards went to South America, and thence to China, and has not returned to this country.

Question 5. By what names were said De Lagüel and yourself, when such superintendents, respectively known and called at San Dimas and Tayoltita, at said company's mines and works, by Mexicans of that district, and by Mexican employees of said company ?

Answer. Said De Lagüel was always called and known as "Colonel," and I as "Don Carlos," and sometimes as "Carlos Mudo," which, in English, means "Speechless," or "Silent Charles."

192 Question 6. Have you read the translations of the alleged defensive testimony in this cause, purporting to have been given at San Dimas, before Gil Ruis, by Patricio Camacho, January 16th; Bartolo Rodriguez, January 19th; Ramon Augirre, January 26th; Aquilino Calderon, January 31st; Refugio Fonsica, February 3d; and Ygnacio Manjarrez, February 19th, all in the year 1871; and before Judge Cipriano Quiroz, by Santiago Granger, August 23d and October 6th, 1871; and again, the same witness, July 23d and 25th, 1872; Maria Cecilia Jimenez, August 24th, 1871; and again, same witness, July 15th, 1872; Bartolo Rodriguez, again, September 24th, 1871; and again same witness, July 25th and October 16th, 1872; Refugio Fonsica, again, September 24th, 1871; and same witness, third time, July 22, 1872; Andres Serrano, Benigno Galvan, and Petronilo Santos, September 25th, 1871; Bernardino Aguirre, Leandro Molina, Pio Quinto Nufiez, and Julian Romero, September 26th, 1871; N. A. Sloan, October 9th, 1871; and Ygnacio Manjarrez, again, October 9th, 1871, and October 9th, 1872; Guadalupe Soto, July 24th, and again August 6th, 1872; Victoriano Sandoval, July 25th, 1872; Aquilino Calderon, again, July 29, 1872; Pio Garrola, July 29, 1872; Martin Delgado, July 29th, and again, October 11, 1872; Emilio Contreras, October 10, 1872; Miguel Laveaga and Arcadia Laveaga, October 12, 1872; Agacito Arriola, October 13th, 1872; and Cepomuceno Manjarrez, October 14th, 1872; and again, same witness, given at Durango, before Geronimo Lido, Juez de Paz, and by Jesus Torrez and Francisco Acosta, July 31, 1872—embracing all the depositions for defence, copies of which are now handed you, and left with you for reference, as questions arise and are propounded to you? And if yes, state whether you have read them, and each of them carefully, or not, and whether you know their contents.

Answer. Yes; I have read them all through, very carefully, and I know and am familiar with their contents.

Question 7. Whenever in said defensive testimony the superintendent is spoken of as "Colonel," or as "Carlos," or "Carlos Mudo," who is the person referred to by such designations respectively?

Answer. When the designation "Colonel" is used, said superintendent, De Lagüel, is the person meant and referred to. I was never so designated; and when the designation is "Carlos," or "Carlos Mudo," I am the person meant and referred to.

Question 8. What have you to say as to the truth or falsity of so much of said defensive testimony as states, in terms or substance, that the superintendents of said company, and those who directed its work at the mines, were ignorant of mining and of their business; that the work done by or under them was improperly done; that the wages paid and expenditures made were extravagant; and that the mines were not worked in accordance with the usages and laws of the country? State fully what was the fitness and qualifications of Colonel De Lagüel and yourself for the office of superintendent, and of the chief subordinates for their positions, and in what manner the work was done?

Answer. All the testimony, in terms or substance, to such effect, is untrue. Previous to becoming such superintendent, both Colonel De Lagüel and myself had each of us several years experience in silver mining, and thoroughly understood the business practically; each of us also understood it scientifically, having studied the art

193 of all kinds of silver and gold mining. The work done by both De Lagüel and myself was done properly, and strictly in accordance with Mexican law and the usages of the mining district, in which the company's mines and works were situated, and the expenditures were judiciously and economically made. Those of the employees who had charge of workmen, or of any special work, were always selected by said De Lagüel, or myself, on account of their experience and ability in said business, and said company paid fair, but not extravagant wages; we paid only the current wages of the country, and made only such discriminations as expertness, industry, and ability justified.

Question 9. What have you to say as to the truth or falsity of those parts of said defensive testimony wherein it is stated, in terms or substance, that the company rendered the hacienda unserviceable for beneficiating purposes, by removing the fixtures therefrom, with the idea of rendering it better with the machinery they erected, which was "of no account," and that by destroying the hacienda for beneficiating ores, according to Mexican custom, they brought ruin upon themselves? State, particularly, whether said hacienda was destroyed, or not, and what was the quality and kind of the old machinery and fixtures removed, and of the new machinery, stamp-mill, and fixtures introduced and erected by said company, and whether the introduction and erection of the new, in the place and stead of the old, was beneficial or injurious to said hacienda and reduction works, and whether the same rendered them more or less serviceable, and the mines and entire property more or less valuable; and

also state what were the opportunities and ability to form a correct opinion on the subject, of those Mexican witnesses who testify with regard to it?

Answer. None of the testimony which in terms or substance is to such effect, is true. Said hacienda was not destroyed or taken down at all, but was enlarged and improved. The machinery and fixtures removed were of the simplest kind, old fashioned, much worn and completely out of use, except by Mexicans, who work mines and crush ores on a small scale by arrastras, or the old "Patio process," and the reduction and beneficiation of ores by them was slow and imperfect, and their working capacity very limited, and were inadequate for the work prosecuted on the scale contemplated by this company. The stamp-mill machinery, and appliances erected there, to supersede the old, were new, of the very best quality and most approved kind, and were highly beneficial to, and very greatly enhanced the value of said mines and property, and increased the effectiveness and working capacity of all the works of the company for crushing ores, more than twenty fold, and for the beneficiation of ores, more than seven fold. The stamp-mill, machinery, and fixtures, and the new hacienda adjoining the old one, erected by said company, and the mill-house, races, and other outer buildings and works necessary to their use, were of the best material, and substantially built, and upon good foundation, and just completed and perfected and in readiness for full operation at the time said company was forced to abandon the same, and their mines and property in March, 1868; and the alleged witnesses who speak upon the subject, or are here reported as expressing opinions upon the use and effectiveness of this stamp-mill and modern machinery, could not possibly form a correct opinion as to the utility or effectiveness of said mill and machinery, even had they ever seen the same. But all of said witnesses, excepting only five of their number who had worked for the company, resided at San Dimas, Ventanas, Durango, and at

194 other places, fifteen miles distant from the company's works, and none of the San Dimas witnesses were at the hacienda and stamp-mill, nor ever visited the patios, in the day time, while I was superintendent, unless they were of the parties spoken of by me heretofore, who came openly armed and with impunity carried off all the best ores of the company, and threatened personal violence if I attempted to stop them, or to protect the company's interest. Those Mexican laborers had no mechanical idea of the mill or machinery, which was new to them, and they were therefore not qualified, and in no position to form a correct, or even an intelligent opinion on the subject, and those alleged witnesses who really had worked for the company, were only common day laborers, and had no knowledge of mining or mining works, except what is derived from the performance of the commonest labors, such as the blasting and taking out of rocks. They were wholly ignorant of modern mills and machinery, and, in fact, of any process for the crushing and beneficiation of ores, other than by the common Mexican patio process, which is out of use and entirely unsuited to large operations, like those of said Abra Company, at Tayoltita.

Question 10. Do you know James, or Santiago Granger, named in said defensive testimony; and, if yes, who and what was he? Was he ever in the employ of said company, and in what capacity and for how long, and what have you to say as to that part of the testimony which purports to have been given by him before Judge Cipriano Quiroz, at San Dimas, July 25, 1872, in answer to a question as to his position in La Abra establishment, and which is stated in the translation you have in your hand, as follows: "At first I was a dependent, afterwards I became superintendent, and remained in charge as representative of Carlos H. Exall."

Answer. Yes; I know said Granger well; he is an English subject of much talent, for whom I entertained respect and friendship. When I was superintendent, I employed him as book-keeper for me, or for the company under me, and also as clerk, to assist me generally in whatever I had for him to do, and he acted in those capacities, and in no other, and his employment by, and all business relations with me, and by and with said company through me, ceased and terminated at the time I was compelled to abandon the company's mines, hacienda, and property, as I have stated, about March 20, 1868. He never was, at any time, superintendent or director of said establishment, nor did he remain in charge as my representative of said company, or otherwise. I was the last superintendent of said company, and he was for a time book-keeper and clerk under me, as I have just stated, and never had any charge or control of the establishment in any respect. There is not one word of truth in that part of what purports to be his testimony, to which my attention is particularly called by this question, as to his position, except that he was a "dependent," acting under me, as I have stated, and, from my knowledge of him, I am constrained to believe that he never made such a statement under oath; and that either his testimony is mis-translated, or else that his testimony has been wrongly taken down by said magistrate.

Question 11. If said James Granger, or any other person, at or subsequent to your abandonment of said mines, hacienda, and property in March, 1868, has taken charge of, or exercised any act of control over, or of sale or disposition of said mines, hacienda, or property, or of any part of it, state whether any power or authority to do

so was conferred by you upon such person, in any way, and in what way; and what, if any, was your power or authority from said company for so doing, on your part?

195 Answer. I never had any such power or authority from said company, and never exercised, or assumed to exercise any such power or authority. I did not leave said mines, hacienda, or property in charge of said Granger, or any other person, nor did I give any charge, control, power, or authority of or over the same, or any part of the same, to him, or any one else, and if he, or any other person has taken charge or control of said mines, hacienda, and property, or of any of it, or has sold, used, or in any way disposed of any of it, each of such acts was without any power or authority, or right whatever to do so, so far as any act by me or for me, or on my part, as superintendent or otherwise, is concerned. The fact is, I left there so hurriedly and secretly, with my American friends, to save my life, as I believed, and still believe, that I had no time, even if I had possessed the right and wished to make such arrangements; besides, I was satisfied that the company's interests there could never be preserved, under any possible management, as the district authorities had determined to expel that company from the mines, because, only the day before I escaped, I was warned by the prefect, Macario Olvera, in person, that it would be better for me to abandon said works, and leave the country before any personal harm came to me, as he could not protect the company, he said, against public sentiment, as the native residents of that district were determined not to remain without work any longer, but to take the mines and work them on their own account. I felt, from this and other demonstrations and warnings, that my American employees and myself were in immediate danger, and I left there hurriedly, as I have said, for the warning of said prefect foreshadowed another attack on the hacienda, and probably that night.

Question 12. Do you know Guadalupe Soto, of Tayoltita, and, if yes, what official position, if any, did he occupy under the Mexican Government, and under what Government did said Soto officiate, if any, while you were at Tayoltita, and were said superintendent?

Answer. I know him well, and he was at the time referred to in the question, local judge of Tayoltita, and he held his official position under the Mexican Republic, of which Benito Juarez was President.

Question 13. Refer to the translation of the testimony purporting to have been given by said Soto, before said Judge Cipriano Quiroz, at San Dimas, July 24, 1872, and also to the papers purporting to be copies of an agreement, or lease, made between you and said Soto, and a renewal thereof by said James Granger, and produced before said judge, July 26, 1872, in which he also attributes the disturbances to a want of a contract with the workmen; and state in what particular, if in any, said testimony is correct, or incorrect, or untrue, and explain fully about the said agreement and the Guadalupe estate referred to, and what it had to do, if anything, with La Abra Company's mines, hacienda, and works. State also if any ores were beneficiated there by the company, or by you for the company to protect its interests?

Answer. It is not true that the communications referred to by said Soto, in his said testimony, were made because of any disturbance among the people, arising "in consequence of a want of a contract for working the mines," between the superintendent and the workmen, as all workmen and employees of the company worked under an express contract, either written or verbal, with the superintendent. It is also untrue that said Soto had never taken "even a solitary stone belonging to said company,"

196 for I have seen Mexicans whom I knew to be in his employ, taking ores from the patios of the company's hacienda to Judge Soto's house, who defied my authority, and whom I did not dare to stop, as they were armed; and I afterwards saw piles of very rich ores in said Soto's house, which I knew had been stolen from said patios of the company, and which had been taken out of El Cristo mine by the company and packed down to said patios, or within the enclosure of the company's hacienda, San Nicolas, or court-yard of the same, the ores of that mine being of such a peculiar character and color that they were unmistakable, and could be at once recognized and identified by any one at all familiar with them. The so-called "Guadalupe estate" is a small piece of level land, about fifty yards square, upon which there was an old, and, to La Abra Company, useless hacienda. It is located not less than half a mile from said company's hacienda, "San Nicolas," and reduction works, and although it was owned by La Abra Company, it never was used by the company for any purpose, and was not included as a part of "La Abra mines and property," and had no connection with them or said hacienda, San Nicolas. Said Soto wished this so-called Guadalupe estate, and with the view of trying to conciliate him, and through him also Macario Olvera, who, it was said, was Judge Soto's son-in-law, and who was at that time prefect and chief authority of San Dimas district, I executed to said Soto said agreement of February 7, 1868, whereby I gave him permission to use the old Guadalupe hacienda for six months, rent free, said Soto intending, as he said, to erect on the premises a stone mill, and to use the same for

reducing his own ores, he claiming to own some mines in that neighborhood, but two or three miles distant. I gave him no other permission than that specified in said agreement.

The instrument made, or said to have been made by James Granger, attempting to extend or renew said lease, seems to have been made and dated long after the company had abandoned all its property there, and was made, if made at all, by Granger, without any power of authority whatever; as I have already stated, Granger had no control over La Abra establishment, or any of the company's property, conferred by me, or by the company, or any authorized agent of the company. It is equally untrue that on said Guadalupe estate the company was working successfully the ore from the Abra mine, as he states, or that the work done there was done by laborers working by permission of the superintendent, in order that they might be protected, or otherwise. The ores which the company took out were taken almost wholly from their mines, "Rosario," "La Luz," and "El Cristo," and none of any considerable amount was taken from their mine "Abra," which was only being opened by the company when driven away. The company did not, directly nor indirectly, or by laborers working by their permission, or otherwise, take or work, or authorize to be taken or worked there, any of their ores, or carry on any business whatever, on said "Guadalupe estate," which was also separate and distinct from another mining establishment of the same name in that neighborhood, called "Nuestra Señora de Guadalupe Silver Mining Company."

Question 14. Say whether or not permission was given to said Soto, by you or said Superintendent De Lagüel, or by any representatives of La Abra Company, to take ore from any of the mines owned or worked by said company, and reduce them at said Guadalupe hacienda, or elsewhere?

Answer. No; no such permission was ever granted said Soto, by said De Lagüel or myself, nor by any person representing said company, during the time De Lagüel and myself had charge of said works.

197 Question 15. What were the complaints of the laborers, and the disturbances by them and their refusal to work, and the failure, if any, of the company to keep its contracts with the workmen, mentioned in said defensive testimony, purporting to have been given by Sandoval and Aquilano Calderon? Explain fully all about these matters.

Answer. There was no such failure to comply with our contracts with the laborers. That is all a hatched-up story—a mere excuse for driving us away, which has no foundation in truth. After the company commenced the work of building the mill-house and out buildings, and of putting up the new additions to the hacienda and reduction works, large numbers of Mexicans came there, many of them mechanics from the towns below, and from various quarters, seeking work from the company, and large numbers of mechanics and miners were employed by De Lagüel and myself on said works, and Tayoltita increased very much in population, there being at one time more than a thousand laborers in and about Tayoltita. The best of them, mechanics and miners, who had experience in the kind of business in which we employed them, were set to work, and we had no trouble with them; but a large majority of said laborers that had flocked together at Tayoltita from other districts, were of the poorest and most illiterate class, and I have reason to believe they were sent there for no good or lawful purpose, for I discovered that those who were not employed by the company soon became intimate with the local authorities there, who were in favor of driving all Americans out of the mines. They came of their own accord—the company did not invite them there. I asked some of these men why they came there in such numbers, and they said they had heard that La Abra Company was rich, and paying large wages, which I denied. I employed as many of these men as I had work for, in blasting, digging, or excavating, and other common labor, but as many of them were not miners nor mechanics, it was impossible for the company to employ all of them, either with profit or reason. The work upon the mill, mill-races, hacienda, shops, houses for the operatives, and other such work which the company was doing, progressed, and some of these structures being completed, and others nearly so, many of the men whom I had employed about that work were no longer necessary, as they were not practical miners, and they were paid off in full and discharged, and when their money was exhausted, they asked for more work, but I could not properly give them employment, for I had nothing for them to do, having then, without them, some one hundred to a hundred and fifty employees at the mines and hacienda. They were dissatisfied, or pretended to be, at my refusal, and were readily joined by those mischievous Mexicans and politicians still remaining about Tayoltita; and the said prefect, or jefe, and local judge, made complaints, because these ignorant and turbulent characters were not employed, and they became very hostile.

Said Judge Guadalupe Soto, and the prefect, Marcus Mora, encouraged this spirit among the men, and incited them to riot by telling them, falsely, that the company came there to annex Durango and Sinaloa to the United States, and they ordered all the men whom I did employ to quit work, which nearly all of them did do frequently

for weeks at a time, paralyzing the works, and the business of the company, so that I sometimes had but few men at work, and the men who did work had to so manage the same as to deceive the prefect, or keep the fact from his knowledge that they were still working for the company; and on one occasion, Aquilino Calderon at 198 tempted, notwithstanding this order, to work at the mine "El Cristo," but thereupon he was by force of arms compelled, by said judge and prefect, to quit the company's service, and they, the said Prefect Mora and Judge Soto infused the same hostile feeling into the whole mass of workmen, and said Mora and Soto issued the written communications or orders to me, which are referred to in said defensive testimony, requiring me to employ all the men, and work the mines as Soto and Mora directed, or to abandon them to the people to be worked by themselves as they pleased; but those written orders were mild compared with verbal orders given me by said officials, from time to time, and finally the last order or warning by the Prefect Olvera, notifying me to abandon the works and leave the country, which forced the abandonment of the company's works and mines. It was but a foregone conclusion with said authorities, as from their words and actions I felt, weeks before that time, that the abandonment was inevitable. The local authorities and other politicians urged the workmen to hostile demonstrations, and at one time they charged upon the hacienda and broke in the doors. This state of hostile feeling continued, and said turbulent characters continued to harass the company in its operations, and when, soon afterwards, Macario Olvera, Soto's son-in-law, became prefect, matters grew rapidly worse, so much so, that only a few nights before I escaped, an attack was made upon the hacienda of the company by some men headed by said Prefect Olvera himself, as I was informed the next day by one of the friendly Mexican workmen, a muleteer. They were armed with pistols and machetes but as I had been previously warned of it by said friendly muleteer, I was in some measure prepared for the attack, and after they discovered my position and strength, they retired for that night. Soto and Olvera both told me that unless I employed all the men who were out of work in that district, which they knew was utterly impossible, that they would let the working people drive the company out of that district and give them the mines to work as they pleased. Their verbal orders to me were much more pointed, emphatic, and hostile, than anything they wrote me. They were working openly and covertly to get us out, and to escape as much of the responsibility as possible for so doing.

I never had any difficulty with the laborers on account, or growing out of any contract with them, and only for the selfishness, jealousy, and interference of said authorities, I think I could have gotten along with the people, and remained at said works. Said workmen were paid the current wages of the country, and were always fully paid according to the contract; the pretense to the contrary was merely a pretext on the part of the officials I have named, to evince their hatred against this company, and their hostility to its existence in Mexico. I would not employ men whom the company did not invite to Tayoltita, and for whom the company had no work, and to employ whom would have been an injury to the company. Said Soto, Mora, and Olvera attempted to make me employ everybody who would work, or employ no one, which they knew would ruin the company, and they themselves incited and brought about those very disturbances, and they are the same complaints, disturbances, and refusal of the men to work, which are mentioned in said defensive testimony; any other version of the matter, contrary to what I have just given, is untrue.

Question 16. With regard to the forced loan made by the company to Jesus Valdespino, for the support of his troops, state whether or not the whole or any of it was paid by you; if not, by whom was it paid, and when?

199 Answer. It is untrue that any part of it was paid by me, voluntarily or otherwise. I was not superintendent until September, 1866, and this loan was made in July, 1866, when Colonel De Lagüel was superintendent, as will be seen by the order addressed by said Valdespino to Colonel De Lagüel, and, to the best of my recollection, the whole amount, \$1,200, was required of and paid by said De Lagüel. There was a small loan, or "prestamo," previously required by Valdespino, of, I think, \$500, and that was paid by contribution, and with much trouble, the company paying the largest part of it, and I recollect that some show of trying to collect from Mexicans a part of said \$1,200 loan was pretended to be made, and failed, and Valdespino then fell back upon the company, as being most able to pay, and completed the payment. The Mexican witnesses must refer to the small loan, if they contributed anything to Valdespino, which I never heard of before. Those laborers were too poor to contribute, and I don't believe the story.

Question 17. Under what authority, or government, was said Jesus Valdespino acting, and what was his office when he forced said loan, or what part of such impositions were by the Juarez government, and what part by the French or Imperialists?

Answer. He was an officer—a colonel—in the regular army of Mexico, under the government of President Juarez. The French, or Imperial Government never extended over the district of San Dimas, nor any part of it; it did not reach so high up

the country from Mazatlan as that. Their occupation on the Pacific slope was confined mainly to the district of Mazatlan. All the injuries inflicted upon the company by the French and Imperialists, were done in the district of Mazatlan, Sinaloa, where the French had control for a time, and upon some of our supply trains moving up from the city of Mazatlan, and consisted in seizing from some of our trains sundry small stores, amounting in the whole, in value, to about \$500, and a number of our mule trains were captured, but returned to the company by the French, when they found out we were not Mexicans, although they accused us of Mexican sympathies. About seven or eight of our saddle mules, of the total value of about one thousand dollars, were kept by the French soldiers, and never returned to the company. Fifteen hundred dollars would cover all the losses sustained by the company by the acts of the French or Imperialists. They sometimes insulted and annoyed us, because we sympathized with republicanism there, but our worst enemies were the Republican authorities themselves.

Question 18. State whether or not your arrest by Judge Perez was in consequence of any misdemeanor committed by you?

Answer. It was not; I had done no unlawful act, and none was charged against me. I told Judge Perez, politely, that if he had some business with me that I would see him in the office, and his pretended offense was all previously arranged, as I was subsequently informed, to give him a pretext for locking me up, and paralyzing the works of the company. I gave him no reason or cause for arresting me.

Question 19. Say whether or not any of the mules which were stolen from the company were ever paid for, or returned to the company, by order of Camilo Perez, or any other person?

Answer. No; none were ever returned or paid for, neither by Perez nor by any other person.

Question 20. State whether or not any of the company's mules were sold by the miners of La Abra establishment, or by you, or any other authorized person, to Pío Quinto Núñez, Calixto Loretto, or any one else.

200 Answer. No, not at all; no such thing ever occurred. All the mules of the company, except those which had been captured by the military on the road, and stolen from the hacienda, and except the saddle mules upon which some American employees and myself escaped to Mazatlan, and the one ridden by my servant, were abandoned at the hacienda, with all the other property of the company, and if any of the mules have been sold to said Núñez, Loretto, or any other person, the sale has been made since said abandonment of the mules so stolen or abandoned, and by persons who had no right or authority to make the sale.

Question 21. What number of mules, in all, were captured or taken from the company, and retained or appropriated by the military of the Republic, and what number stolen from the hacienda, all before the breaking up and forced abandonment spoken of by you?

Answer. Under Colonel de Lagüel, and my own superintendence, about one hundred and twenty-five were so captured on the road from Mazatlan, and about twenty stolen from the hacienda. I do not know how many were so taken from the company under General Thomas J. Bartholow's superintendence, but I have understood from him that a number of trains were so captured by the said military.

Question 22. What were the opportunities, if any, of Refugio Fonseca, and Victoriano Sandoval, to personally know about the business and condition of the Abra Company, and other matters about which they are reported to have testified, in the copy of defensive testimony which you hold in your hand?

Answer. They were common laborers, up in the mines, three miles distant, only coming to the hacienda once a week, and it was impossible that they should have any personal knowledge of the business of the company, and the other matters as to which they apparently testify, or which is here reported as their testimony.

Question 23. State whether or not a large pile of "tepetate," or "worthless rock," was made in the patio of the company's hacienda, and called ore, and then was covered over with a layer of real ore, in order that it might be seen by a commissioner, who came from the United States for the purpose of examining into the enterprise on behalf of the company, and whether or not any such pile was made there for the purpose of deceiving the capitalists in the United States, or for any other purpose, or existed while you were at Tayoltita, or whether any such commissioner or agent came there? Refer to the letter of Jesus Torres, in the defensive testimony.

Answer. No commissioner or agent came from the United States, or from said company, for the purpose of examining into said enterprise on behalf of said company, while said De Lagüel, or myself was superintendent, nor was any pile of "tepetate" covered over with ore, or without being covered over with ore, made or existed there, and if any such pile of "tepetate" was there when said letter of Torres purports to have been written, it has been made there since said abandonment, and must have been so made for some unjust and unworthy purpose. I can say positively that said letter contains a tissue of falsehoods.

Question 24. Is it true or false that Colonel De Lagüel, when he became superintendent, found a large quantity of rock taken from the mines, piled up in the patio, and ordered Bartolo Rodriguez to assort it, who did so, selecting sixty 201 cargass of the best, which De Lagüel smelted or beneficiated, and it proved worthless; and if it be not true, state why not?

Answer. It is untrue; there was no such important mining of ores until sometime after De Lagüel became superintendent, and no such pile of "tepetate" or "rock" existed there when he first became superintendent, nor while I was there, and no such circumstance as that named in the question ever occurred. Prior to his becoming superintendent, and for some time afterward, the work principally done, so far as the mines were concerned, was in opening them and in cleaning them out, as some of them had fallen in and required great labor and time, and heavy expenditures of money to re-open them. A few of the ores which were mined while he was superintendent, were beneficiated by him, merely as a test of their quality, and was done, necessarily, in the old fashioned way, as our mill and reduction works were not up then; and subsequently I beneficiated some few tons, and they proved to be of the richness stated in my previous deposition; that was early in 1868. I beneficiated, in all, about twenty tons, the most of it as a trial to our new machinery, which worked admirably, and the proceeds, about \$17,000, was put into the general fund of the company and used in said works, immediately before we were compelled to leave, and it was lost with all the other expenditures there. This was all the beneficiation done by or under De Lagüel or myself. The mill, mill-house, and other works for beneficiation by the company, were not completed until long after De Lagüel ceased to be superintendent and left the Mexican Republic, and as for smelting, there was not a smelting establishment in that district that I ever saw or heard of. The silver was extracted from the rock, universally by "amalgamation" there, and not by heat or smelting. Said Rodriguez was a common laborer, and was discharged by me for dishonesty, and, of course, he became very hostile, and was one of those who made the night attack on the hacienda, with other armed men, and amongst that number of violent characters, I recognize the names of no less than four of these Mexican witnesses reported here by Cipriano Quiroz, viz: Bartolo Rodriguez, Guadalupe Soto, Cepomucino Manjarrez, and Victoriano Sandoval.

Question 25. State whether it is true or false that the best of the ores got out by the company were beneficiated, and whether it is true or false that you took the silver to the city of Durango and gambled it away, or paid a gambling debt with it, and whether it is true or false that the material taken by the company from the mines and piled up in the patio of the hacienda, was "tepetate," or good silver ore? Explain fully as to all those matters, particularly as to the course taken by the superintendent in the selection of the material so taken out from the mines and piled up in the patios, and also whether it is or not true, as stated in said defensive testimony, that you abandoned the company's works and mines, in 1868, because you could find no silver in the ores, and they would not pay for reducing them, and not because the authorities interfered with the working of them?

Answer. No; all the matters and things stated in the question are without foundation in truth. There is not one word of truth in the statement that the best of the ores taken out by the company were beneficiated. Colonel De Lagüel, while he was superintendent, beneficiated a few ores, merely as tests, as I have already stated, and subsequently, while I was superintendent, I from time to time beneficiated for the same purpose, a few 202 of the ores, or average samples, in order that I might be doubly sure of their quality, in which I was at times assisted by Dr. Elder, a practical chemist and assayer, and such reduction found them as rich as I stated, in my previous deposition. It was only just before said abandonment that the company's mill, machinery, and other works were completed and in readiness for active and perfect crushing and beneficiation of ores, and until then the principal energies of the company had been directed to the erection of those works, and to getting out ores, so as to commence their reduction on a large scale. I then beneficiated some twenty tons, to try the machinery, as I have already stated. When those works were completed, and we were ready to realize, the facts were widely circulated by Mexicans, and I was soon thereafter notified by said prefect, Olvera, that the company would be no longer tolerated there, and that he could not protect the company if I attempted to remain, or if the work should continue, and he advised me to go quickly, to avoid personal violence, which I did do, believing that he knew the plans, and the determination of the people and the authorities to drive us out, in some way; and the manner of doing it being strongly hinted at in his official warning, I left and abandoned everything the next day, or night. It is simply a lie, that I took the silver to Durango and gambled it away, or any part of the same, or paid a gambling debt there, or elsewhere, as I made no gambling debts. I never bet or gambled away a dollar of the company's money or bullion in my life, neither in Durango nor anywhere else, and nobody ever accused me of gambling who knew me personally. This false charge, which I am forced to believe is the invention, not of any poor Mexican workman, but of inter-

ested and prejudiced parties who report this falsehood, merits only my indignation and contempt. It was known publicly that Cipriano Quiroz, before whom this slander is said to have been stated, was one of the bitterest foes of all Americans in that district, and in connection with the Laveagas—Miguel and Aroadio, father and son—Marcus Mora, Judge Guadalupe Soto, Marcus Olvera, the prefect, and some Federal officials at Durango, was notoriously at the bottom of the conspiracy, and the expulsion of the company. I never had any association, of any kind, with gamblers, knowing them to be so, nor with the so-called witness, Refugio Fonséca, who appears to have so testified. He never was in Durango with me, and if I had done as stated in this deposition, he could not have known it; nor does it even appear by this reported statement, which I hold in my hand, that he was in Durango at the time stated nor that he witnessed what he is falsely reported in this deposition to have stated. I never made any improper disposition of the company's money or property, neither in Durango or elsewhere, and I never associated with gamblers, or other unworthy men, knowing them to be so, in Mexico nor anywhere else.

The ores were taken out of the company's mines, mainly while I was superintendent, but a small part of them were taken out while I was assistant superintendent to Colonel De Lagüel. They were taken principally from the company's mines, "Rozario," "La Luz," and "El Cristo," and were broken in the mines, by miners of skill and experience, who were placed there in charge of the Mexican workmen, and the worthless parts were there thrown away, and the evidently good paying ores were packed in sacks on the backs of mules, a distance of from one and a half to three miles, to the patios of said hacienda San Nicolas, where they are subjected to the examination of skilled ore-assorters, and if any worthless pieces of ore had escaped

observation at the mines, they were rejected, and piled on one side of the patios, 263 and the remainder, or good ores, were then piled up in order. They were not

all one quality, of course; some were not as rich of silver as others, which is always the case, and it is quite likely that among them, notwithstanding the care taken in their selection, there would be some poor "pay rock," or "tepetate," as Mexicans call the poor ores; but, as a whole, they were a body of very rich ores, yielding not less than an average of \$675 per ton, and much of it larger amounts, and any testimony to the contrary, is untrue; and if it be true that those which remain there now are poor or worthless, then they have been very thoroughly culled, and the greater part of them taken away, and these Mexican witnesses, if they were shown the ores at all, which still remained there, must have seen only the refuse, and possibly those which were rejected or thrown away and piled up beside the patios by my assorters. The good-paying ores, so selected and piled up in the patios, were there at the abandonment in 1868, excepting only the very richest of them, which were boldly stolen and carried away from the possession of the company while I was still there, as I stated in my previous deposition, and excepting also the few average samples which, as I have said, were beneficiated as tests of their value, and the proceeds of those tested I put into the company's fund, and made use of the same in and for the advancement of said works for the benefit of the company, and the same disposition was made of the proceeds of said ores tested by De Lagüel, to my personal knowledge, all of which was lost to the company at said abandonment. There was also a large quantity of cleaned ores at the mines, but not yet packed to the patios, the quantity of each being as I stated in my previous deposition, which remained on the patios, and at the mines, on the 20th day of March, 1868, at the time of said abandonment, and any statement to the contrary is wholly untrue.

Question 26. What have you to say in reference to so much of the defensive testimony, purporting to have been given in terms or substance, by Miguel Laveaga, Pio Quinto Nuñez, Ygnacio Manjarrez, or others not already answered by you in your previous answers, and particularly to so much as states that you or the company had all the protection you desired, and that you were not denied protection by the civil or military authorities?

Answer. So far as their testimony, not already answered, relates, or is intended to relate to anything that was done or occurred, or that existed while I was superintendent, in so far it is certainly not true. It seems to me pretty evident, however, that these witnesses are speaking mainly of transactions which must have occurred subsequent to said abandonment in March, 1868, and with which the company, in fact, was in no way, directly or indirectly, connected. San Dimas, where most of these witnesses reside, is distant from said hacienda about fifteen miles, and the communication is by a narrow and dangerous mule path, almost impassable, and over a mountain some 7,000 to 8,000 feet high, and no one would pass over it from San Dimas to said hacienda, merely from curiosity to see the hacienda, or without some special business or object, and they can have no personal knowledge of the material matters of which they speak, and above all they could not know from me, what they pretend to know in these depositions—the reasons or motives that controlled or determined me in conducting said mining establishment; but they might have told, if they would, the reason of my sudden departure and abandonment of the company's interests and

204 property there, as I know some of said witnesses accelerated my departure, by breaking in the doors of the hacienda, and by the intention of violence if not of murder.

In this connection, I will name C. Manjarrez, Bartolo Rodriguez, and the old man Camacho. I did not communicate or talk about the affairs of the company, to or with any of the employees of the company, visitors, or strangers, and for which I was then called by the Mexicans, and known by the name "Carlos Mudo," that is, in English, "Speechless Charles," or "Silent Charles." The true causes of said abandonment were those stated by me in my previous deposition, and in this, and any others, assigned by any of the witnesses, are entirely untrue; and as to having received all the protection I desired from the authorities, I here state positively, that neither the company nor myself ever had any protection at all, nor any offer of it from any authority, neither for the company, its interests, nor for its American employees. I applied, personally, and also through Don Jesus Chavarria, of the capital of Durango, the most distinguished lawyer in the State, who appealed to the civil and military authorities of Durango, in the name of La Abra Mining Company, for protection for myself and for the company's interests, but it was denied me, and refused in both instances. Jesus Chavarria and Joseph Rice appealed to Governor Zarate, who was then civil and military Governor of the State, and a general in the federal army under President Juarez. I employed said Chavarria on behalf of the company, because he was a distinguished man, and able advocate, of great influence, but he was flatly denied by General Zarate, the Governor, as he, Chavarria, reported to me, and he told me that said Zarate was determined to get all American companies out of that part of Mexico, if possible. When I applied to the Governor of Durango, General Zarate, in person, in 1867, I think in July of that year, for even a letter to the prefect and judge of the district of San Dimas, requesting them to let me proceed with the works of La Abra Company unmolested, and to protect the company from the depredations committed defiantly and openly by daylight, and at night, by Mexicans, urged on and encouraged by the prefect and judge there, in carrying off the best of the company's ores, and capturing our mule trains and other property: the Governor replied that he would not give the letter of request, and that he thought it best for the company to give up the enterprise, and leave the country, under the circumstances, as the sentiment of the people, he said, was opposed to the proclamation of President Juarez, inviting foreigners there, and he thought it impossible to enforce their pledges of protection, exemption from taxation, and other obnoxious provisions. He said, in substance, that he would not attempt to protect foreigners in holding the property of the country against the sentiment and interests of the people; but I cannot, at this period, pretend to give his exact language. This, however, is a true and correct version of what he said in Spanish, properly translated into English, in denying my application for protection. He was then in the military service of the Republic.

Question 28. Did you or not ever apply to any of the authorities of, or in Sinaloa, civil or military, for protection against the capture of claimant's mule trains and supplies; and if yea, to whom did you apply, and when, and what was the result of said application? State all that took place in relation to such captures, and all that was done by the authorities, if anything, to protect said company and its property.

205 Answer. Yes; I applied both to General Ramon Corona, who was the chief in command on the Pacific slope, of the Liberal military forces under President Juarez, in or about the months of October or November, 1866, and also to the military governor and commander at San Ygnacio, whose name I cannot now recollect with certainty, but he was of the same army, and it was but a few days after I applied to General Corona for protection against the depredations upon the company's property named.

I told General Corona of the captures, or impressments of the company's property by his subordinate officials in said army, and I was politely refused such protection by said general, who declined to act in the matter, and referred me to the commanding general at San Ygnacio, under whose immediate command the impressment of the Abra Company's train of mules and supplies had been made. Said military governor of San Ygnacio declined to extend the protection asked. This last-named official was then the military governor and commander at San Ygnacio, Sinaloa. I called at his headquarters, and requested him, politely and respectfully, to return to the company the mule train and provisions captured by his troops, and I told him I had just been referred to him by General Corona. His answer was insulting to all Americans, who were not wanted there, he said, and that he would not interfere. In substance, he said that the company might be paid for the mules and supplies furnished the army, at the close of the war, but that he could not be annoyed any longer by these constant and almost daily applications of Americans for protection; and I recollect that, amongst other unreasonable things, he said that if we could not protect ourselves, we had better go back to the United States. He rudely denied the protection I asked. The said military governor and commander of the Liberal forces at San Ygnacio was, I think, named Parra, or General Parra, but as to his name, I

cannot now state it positively. As I have said before, it is exceedingly difficult for me to recollect those Mexican names, but I remember that his manner was offensive, and it was evident to me that he was unjustly prejudiced against Americans. He referred to the injurious reports put forth and circulated in San Dimas, by the local authorities, to the disparagement of the Abra Company—that we came there to influence the annexation of Durango and Sinaloa to the American Union; and although I denied the truth of those reports, which were utterly false, and I told the General so, and that such reports were gotten up by the Mexican civil authorities at San Dimas, as a pretext for expelling said Abra Company, but he persistently refused to order such protection, or even to give me a letter of request to the local authorities to protect us, which I begged of him to do, and as one of my mule trains, loaded with supplies, belonging to said Abra Mining Company, had been captured by his soldiers in the neighborhood of San Ygnacio only a few days before that, I asked him to order said train of mules and the provisions and supplies to be restored to the company, which was the main business that took me there at that time, but he refused to do so, saying, in substance, that as the supplies were already appropriated by the soldiers, their return to the company was then entirely impossible; but he did finally promise to let his soldiers hunt for the mules, about forty in number, which were so captured with said supplies, and he promised to see that the mules should be returned to the company as soon as they could be found, but said mules were never returned to said company, nor to any of its agents or representatives, but on the contrary, other trains, with the like supplies, were taken by the military authorities from said company, by force, from time to time during the company's operations at Tayoltita, which by Mexicans was called "levying prestamos for the support of the military of the Republic." I cannot now recollect the exact number of mules so captured by the military authorities of the Mexican Republic, from said company, but I can approximate the number, which I believe would be, first and last, including those captured from General Bartholow, while he was superintendent, not less than two hundred and twenty, besides those abandoned at the works near Tayoltita.

Question 29. Do you know Maria Cecilia Jimenez, one of the witnesses named in said defensive testimony; and, if yes, who and what is she?

Answer. I knew her when I was at Tayoltita; she is a step-daughter of said Judge Guadalupe Soto; she did not live at Tayoltita when I was in that district, but she came there occasionally, to visit the family of said Judge Soto, her step-father. She was publicly well-known in that district as an abandoned woman, of vicious and vulgar habits.

Question 30. What is her general reputation for truth and veracity, in the said district of San Dimas, where you say she was publicly well-known?

Answer. Very bad.

Question 31. From your knowledge of the general reputation of said Cecilia in that district, for truth and veracity, would you believe her under oath?

Answer. I would not.

Question 32. State whether an employee of the Abra Silver Mining Company was murdered or not; and, if yes, by whom was he murdered, under whose superintendence of the company, and what was his name and his position with the company, and the cause of said murder?

Answer. Captain Grove was the person. It was under the superintendence of General Bartholow. Mr. Grove was captain of the supply-trains, and one of the principal employees of said company. He was murdered by said military, in the district of San Ygnacio, State of Sinaloa, while on the road to the company's mines, and a train of mules loaded with supplies for the company were taken from Grove, as conductor-in-charge of said train. I am, of course, familiar with the history of that murder, by report of the company's officers. I have heard it all, not only from the company's officers, but the Mexican officials of San Dimas, Arcadia Laveaga, Marcos Mora, Judge Soto, and the Prefect Macario Olvera, spoke freely to me of that affair, and admitted the facts, and I have heard officers of the liberal army speak of it, and some of them condemned, or said they condemned, the cowardly plan of said capture, and the brutal and unnecessary murder of Mr. Grove while trying to protect the property of the company under his charge. The particulars of that capture and murder, however, are better known to Thomas J. Bartholow, the first superintendent.

Question 33. Did you know said Mexican witnesses, Ygnacio Manjarrez, Julian Romero, Paz Gurrola, Martin Delgado, Jesus Torres, Francisco Acosta, and Miguel and Arcadia Laveaga? and, if yes, where did you know them, who were they, what was their occupation, and where did they reside during the mining operations carried on there by claimant?

Answer. Yes, I knew them. I saw Ygnacio Manjarrez once or twice at San Dimas, after he sold out his interest in said mines and hacienda to the Abra Company. He never visited the company's works or mines, to my knowledge, while De Laghel or myself were superintending, and I have never heard of his visiting the said mines and works.

207 He moved to Ventanaz, as I was informed, soon after disposing of his interest in

said mines to the company, and from Ventanas it was said he went to Durango. He did not reside in the district of San Dimas at any time while claimant was carrying on said works under De Lagnel's superintendence, or mine. Jesus Torres, and Francisco Acosta, both resided in the city of Durango, while claimant carried on said works. Said Torres was a lawyer in Durango, and said Acosta a merchant there. Julian Romero was living in a *cave* near La Cueva, about sixty miles from Tayoltita, or from the company's works. He called himself a *ranchero*; I never saw him at any other place than at said *cave*. Paz Gurrola and Martin Delgado resided in the town of San Dimas all the time I was in that district. They were occupied in selling whiskey, or mescal, and cigars. Miguel and Arcadia Laveaga also resided at San Dimas. Mignal Laveaga owned mines, but his son, Arcadio Laveaga, was engaged principally as a politician, and office-holder.

Question 34. Have you any interest, direct, contingent, or otherwise, in the claim of La Abra Silver Mining Company, in support of which your deposition is here given, or are you agent or attorney for claimant, or for any person having such interest?

Answer. No, sir.

(Signed)

CHARLES H. EXALL.

Witnesses:

(Signed)

R. E. STILWELL.
CLIFFORD SAVILLE.

Subscribed and sworn to before me, this 12th day of June, 1874.

R. E. STILWELL,
U. S. Commissioner for the Southern Dist. of New York.

[Seal of the U. S. Com'r, southern dist. of N. Y.]

UNITED STATES OF AMERICA,

Southern District and State of New York, City and County of New York, ss:

I, Richard E. Stilwell, United States commissioner for the southern district of New York, do hereby certify, that the witness herein, Charles H. Exall, of this city, and who is known to me as the person named therein, appeared before me at the office of the United States Commissioner for the said district, at the time stated therein, and was lawfully sworn by me to state the truth as a witness on behalf of claimant in the above-entitled matter, and that in answer to said interrogatories, suggested by counsel for claimant, and propounded by me, he deposed and testified as set forth in the foregoing deposition; and that at the conclusion, said deposition was carefully read over to said witness by me, and that he thereupon confirmed the truth of all the matters and facts therein stated by him, and attached his proper signature to the same; in my presence, and in the presence of the subscribing witnesses; and I further certify that said deposition was written down by Clifford Saville, who acted as my clerk for this purpose, and that said Clifford Saville has this day testified before me that he has no interest, directly or indirectly, in said claim of the Abra Company, and he is neither agent nor attorney for claimant, nor for any person having such interest; and I also certify, that I have no kind of interest, direct, contingent, or otherwise in said claim, and that I am neither agent nor attorney for claimant, nor for any person having such interest; and I further certify that I know said witness, Charles

208 H. Exall, to be a man of responsibility in this city, and of good character for truth and veracity, and that his statements are entitled to full faith and credit.

Given under my hand, and the seal of the United States commissioner for the southern district of New York, this, the twelfth day of June, A. D. 1874.

(Signed)

R. E. STILWELL,
U. S. Commissioner, for the Southern District of New York.

[Seal of U. S. Com'r, southern dist. of N. Y.]

Rebutting evidence in re La Abra Silver Mining Company versus The Republic of Mexico. Deposition of Ralph Martin before the American and Mexican Claims Commissioner, Washington, D. C.

UNITED STATES OF AMERICA, SOUTHERN DISTRICT AND STATE OF NEW YORK,
Office of United States Commissioner, City and County of New York, ss:

Friday, 3 o'clock p. m., June 12th, 1874, before me, Richard E. Stilwell, United States commissioner for the southern district of New York, personally appeared Ralph Martin, who is known to me as the person here represented, and who, having been introduced as a witness in behalf of claimant, and by me lawfully affirmed to state the truth, in answer to interrogatories suggested by counsel for claimant and pro-

pounded by me, relating to the statements of witnesses for the defense in this cause, and confined solely to the rebuttal of the same, deposes and testifies as follows:

Question 1. State your name, age, citizenship, and occupation?

Answer. My name is Ralph Martin; age, forty-one years; occupation, not in active business—living upon my private means; was born in this city, New York, where I still reside, and where I have always had my permanent residence, although I have traveled and resided temporarily in other countries. I am, and always have been a citizen of the United States. My residence is No. 45 West 22d street, in this city.

Question 2. Where were you residing, temporarily, from about September, 1868, to October, 1870?

Answer. In the district of San Dimas, in the State of Durango, Republic of Mexico.

Question 3. At what particular place did you reside in said district, and especially in and during the months of April and May, 1870?

Answer. At the "Hacienda of the Candalaria Company," near the town of San Dimas, in said district, State of Durango.

Question 4. Where was the seat of government for said district of San Dimas?

Answer. At said town of San Dimas.

Question 5. Are you acquainted with "La Abra Silver Mining Company," the claimant in this case, or with any of claimant's employees or attorneys? and if yes, state their names, occupation, and residence; and also where and when you first made the acquaintance of the attorney or attorneys of claimants, and under what circumstances.

State fully what you recollect in relation thereto, without further questions.

Answer. I am not acquainted with said company, or, at least, I am not sure that I am acquainted with any other member of said company than its president, Mr. George C. Collins, whom I know personally; he is a well-known wholesale tea merchant, of New York. I am acquainted with Charles H. Exall, in this city, who, as I understand it, was the last superintendent or director of claimant's mines and property in Mexico. His occupation is that of cashier of the banking-house of Washburne & Thayer, No. 62 Broadway, New York, where I have met him. I am well acquainted with James Granger, who was once in the employ of claimant, as clerk and book-keeper for said company, under Mr. Exall's superintendence, as Mr. Granger and others have informed me, and it is a well-known fact at San Dimas aforesaid. Said Granger is a native of Scotland, an English subject, and, as I think, is now residing in the said district, where I knew him during my residence in Mexico, from the fall of 1868 up to the same time in 1870. I also knew claimant's attorneys, General A. W. Adams, and Sumner Stow Ely, Esq., both of New York.

The circumstances under which I became acquainted with General Adams, which are called for by the question, are as follows: Sometime during the last days of the month of April, 1870, while I was in charge of said "Hacienda of the Candalaria Company," in said district of San Dimas, Mexico, the said General Adams came to said hacienda and presented a letter of introduction to me from one of my personal friends of New York, requesting me to show him, said general, some polite attentions during his sojourn in that part of Mexico, and I, of course, invited him to stop at said hacienda, and to partake of my hospitalities so long as he remained in that district, which invitation was accepted.

He came there with an escort, at the head of which was Colonel Francis F. Dana, who had been a lieutenant-colonel of cavalry in the service of the Mexican Republic, during the so-called Imperial war. Colonel Dana acted as interpreter for General Adams, while he remained in that district. They came there for the purpose of taking depositions, in support of the claim of said Abra Mining Company vs. Mexico. These are all the circumstances under which I became acquainted with said attorney, which seem to be called for by the question.

Question 6. State whether you knew one Maria Cecilia Jimenez, a witness for defense, in the said district of San Dimas, Mexico, during your residence there, from September, 1868, to October, 1870; and if you did, who and what was she, where did she reside, and if you know, what was her vocation, or calling in life, and to what authority, or Mexican official, if to any in that district, is she related, and how related; state also whether you were personally acquainted with her there, and if you know whether she met the said General Adams in your presence at said hacienda, and for what reason; and also if there was any other person living in that district called "Maria Cecilia Jimenez?"

Answer. Yes—I knew said Maria Cecilia Jimenez, by sight, and by reputation there, and I knew her personally, I may say, for she used to come to said hacienda occasionally, to visit an officer of my said company, with whom she was living as companion or mistress, and I have frequently spoken with her, but I never recognized her as a personal associate. Said Maria Cecilia Jimenez is the step-daughter of Judge Soto—Guadalupe Soto—who was the local judge of Tayoltita, in said district, or at least she was so treated and recognized by said Soto, and she was claimed and regarded by the wife of said Judge Soto as her daughter, in my presence, and

210 she was so known and regarded in that district. Said Maria Cecilia's father was a Mr. Hernandez, of said State, but the said Maria Cecilia acquired the name of "Jimenez" by the second marriage of her mother with a man of that name, as I was informed by her, and by others there who knew their history.

As to her residence, she did not live at Tayoltita with the family of said Guadalupe Soto, her step-father, but she travelled about considerably, and went home to Tayoltita occasionally. I have known her to reside at the said town of San Dimas for some months at a time, but I do not think she had any particular place of residence. She was best known at San Dimas, and there was no other woman of that name in that district. My answer to that part of the question which relates to her vocation, or "calling in life" is, that I do not know, except by common report there; her vocation was not the most commendable. She was known and recognized by the public, in said district, as an abandoned, or lewd woman.

Question 7. I now hand you a translated copy of the alleged deposition of Maria Cecilia Jimenez, said to have been taken by and before one "Cipriano Quiroz," signed by him as judge of first instance for said district, at San Dimas, Durango, and returned by him "to the Supreme Government of the State," dated "August 24th, 1871," the copy forwarded to Washington being certified "Mexico, November 8th, 1872," signed "Juan de Dios Arias, chief clerk," and which reads as follows, to wit:

"Deposition of Maria Cecilia Jimenez, called to testify in this case, who, after having been sworn to tell the truth in regard to what should be asked of her, as far as she might be able, made answer to the interrogatories as follows:

"1st. State your name age, condition in life, and residence?"

"Answered: That her name is as has been stated; is 32 years of age; is married; and a resident of this mineral district."

"2d. State if it is true that two Americans offered D. Santiago Granger \$5,000 with which to buy witnesses, who would say that these operations in Tayoltita had been abandoned on account of a disturbance, and that no one could be found to give such testimony?"

"Answered: That what she knows is that an American, called general, and whose name is Alonzo W. Adams, who lately came in company with Mr. Dana, was the person who, solely on his own account, summoned some operatives, who were living in Tayoltita, and who had been employed in his works, which operatives, having made their appearance, gave their testimony, the said general writing, and offering to pay them well for the loss of their time, whatever it might be; this was done without witnesses being present, or authority of any kind. That deponent afterward came to this mineral district, and being in the hacienda of the Candalaria Company, saw that the said general had quite an angry altercation with D. Santiago Granger, and with an American named Rafael Martin, which arose on account that these gentlemen did not approve of the declarations that he had taken upon himself to receive on his own account; and besides, because, in their opinion they were false, it being inferred that the said general wished to take advantage of the ignorance of the deponents, who could neither read nor write; that the result of this altercation was, that Don Rafael Martin drove the said general out of his hacienda, saying to him that he did not wish to run the risk of any compromise to the company, or to Mexico, that would be

211 likely to arise from his unjust pretensions in taking it upon himself to alone receive the declarations of the said operatives."

"With this the examination was concluded, to which, after it had been read to her, she made acknowledgment, and said that she had nothing to add thereto or take therefrom." "Signed for her, at her request, by José Antonio Cordova, with me, the judge, and the assistant witnesses." (Signed)—"Cipriano Quiroz, de la O," "J. Antonio Cordova."

Question. What have you to say, Mr. Martin, as to the truth of this statement of said Maria Cecilia Jimenez, in the above-quoted deposition? Having read the same, in my presence, and knowing its contents, go on and state all that took place, and all that was said and done by you and by said Adams and Granger at the time and place, and on the occasion referred to in said deposition, without further questions.

Answer. It is a manufactured falsehood, from beginning to end, so far as it relates to me, or to anything said or done by me, or by General Adams, Santiago Granger, or any other person or persons in my presence or hearing, or by report of others. I am the person referred to in this deposition of said Maria Cecilia Jimenez, evidently. There can be no mistake about that, for there was no other American, or person called Ralph, or Rafael Martin, in said district of San Dimas, and no other in that State, that I have ever heard of, besides which, it is true that the said attorney of claimant, General A. W. Adams, Mr. Dana, his interpreter, and Santiago Granger, were all actually there, at the "hacienda of the Candalaria Company," of which I was in charge at that time stated in this quoted deposition of said Maria Cecilia Jimenez, which was some time during the last days of April, or early in May, 1870; and I also recollect to have seen there at the same time, said Maria Cecilia Jimenez, but she was outside the hacienda, with her step-father, the said Guadalupe Soto, judge of Tayoltita,

in said district; and I saw said Maria Cecilia come into the hacienda, I think, on the same day, where she met the General and party named by her. It may be said of her that she is bold and fearless, but of insinuating manners, and on learning that the strangers, General Adams and others, had stopped at said hacienda, she was attracted there, and subsequently came, or forced herself into their presence, as stated. The difference between the customs and usages of society, there and here, rendered her conduct possible on that occasion, and not uncommon in that district. This explanation is my answer to that part of the question as to whether she met General Adams in my presence, and where, and it is the only answer I can give.

The small particle of truth contained in her said deposition, so far as it relates to me, or to anything that occurred there is, that the parties named by her were there at the time stated in her said deposition, but her ridiculous narrative of facts, as to what occurred there between General Adams, James, or Santiago Granger, and myself, is an unmitigated falsehood from beginning to end, and it is destitute of all excuse, and of all material from which to make up, or invent such a story, as no such "angry altercation," nor anything else that might be so construed, ever took place "with Don Santiago Granger and an American named Rafael Martin," nor did I ever pretend to interfere with the conduct or business of said General Adams while he was in that district, neither in taking depositions, or failing, as he certainly did, to get them taken before Judge Milan, nor in anything else. All conversations at said hacienda, and elsewhere, between said General Adams, Santiago Granger, 212 Colonel Frank Dana—"Mr. Dana," and myself, were carried on exclusively in the English language, of which Maria Cecilia Jimenez had no knowledge; and as she could not understand English at all, it would have been impossible for her to have known the fact, even if such "altercation" had taken place, and I had made the foolish and unjust remarks about General Adams, and his efforts to have testimony taken there, which is attributed to me in her so called deposition; but I repeat, that her said statement is a mere invention, a made up or fixed up statement, and evidently for no good or worthy purpose.

Question 9. How long did said Adams remain in said district of San Dimas, and where did he go from your said hacienda? State also whether you parted with him in a friendly manner, or otherwise?

Answer. He remained there, I think, about six or eight days; when he left said hacienda, I went out to "see him off," and we parted in a friendly way—we had no reason to do otherwise. He left there for Mazatlan, Sinaloa, and I have reason to believe he went to Mazatlan direct, as I know of the time of his arrival there from one of the men in my employ at said hacienda, who went down to Mazatlan with the general and his party.

Question 10. Is it true that at his said visit to San Dimas in April or May, 1870, any Mexican authority at Dimas took depositions for claimant, at the request of said General Adams; if yea, who was said authority, and who testified? And if no depositions were so taken, state why they were not taken, and if any authority refused to take them, state who that authority was, if you know?

Answer. I believe no depositions were taken for said claimant at San Dimas. I know that Anastacio Milan was then the judge of 1st instance for that district. I recollect of General Adams' complaints at that time, because he said that the witnesses, who knew of the molestation and depredations upon the Abra Company and its property, had come over from Tayoltita, a distance of fifteen miles, under a promise to tell the truth, and to state all that had occurred there, but that they had been frightened away from San Dimas, as he then said, by the authorities there, and that all of his witnesses, excepting two, had mysteriously disappeared, and that they gave no testimony; that Judge Milan turned the interpreter, Dana, and Granger, one of claimant's witnesses, out of the court-room, and that General Adams was compelled thereby to abandon said examination, and all hope of taking depositions in that district; and that Granger, and some one or two other witnesses, went to Mazatlan in order that their depositions might be taken before Isaac Sisson, the United States consul.

This is all I know about the taking of depositions in this case, except that said James, or "Santiago Granger," and Matias Avalos, told me on their return from Mazatlan, in May, 1870, that they, Granger and Avalos, had given their depositions in support of this claim, before Isaac Sisson, Esq., the said American consul at Mazatlan; and before leaving said hacienda, in April or May, 1870, General Adams again complained to me, very bitterly, of the conduct of said Judge Milan, whom he then accused of conspiracy with other authorities there, to frighten claimant's witnesses away from San Dimas, which they succeeded in doing, with but two exceptions, and of dissuading the two witnesses from testifying in this case, which was done, as he said, in open court, and finally of turning said Granger, one of the witness, and Dana, the interpreter, out of the court-room.

213 Question 11. What was the conduct of said attorney, General Adams, in April and May, 1870, in said district of San Dimas, during his efforts there to obtain

evidence in this cause, so far as you know, or have heard from any good or reliable authority?

Answer. So far as I know, or have heard from any reliable, or other source, General Adams conducted himself, and his said business there, honorably and with propriety.

Question 12. State whether you were, or not, acquainted with the general character of said Maria Cecilia Jimenez, for truth and veracity, in said district of San Dimas, by common or public repute, during your residence there, say from September, 1868, to the month of October, 1870? And if yea, was it good or bad?

Answer. I was; it was bad.

Question 13. From your knowledge of her general reputation for truth and veracity in said district, where she resides and "is best known," would you believe her under oath?

Answer. No, I would not. I certainly would not believe her, provided she had a larger interest or object in swearing falsely than in telling the truth.

Question 14. State whether you know the value of said Abra Company's mines near Tayoltita, and of the quantity and value of ores extracted and abandoned by claimant in that mining district; or of the kind of consideration with which said company was treated by the Mexican authorities there; or of the kind and degree of protection extended to said company and its directors in its said mining operations; or whether it is true that said company, or other Americans in said Mexican States of Sinaloa and Durango, enjoyed all necessary security, in a higher degree than the Mexicans themselves; and if it is also true that the superintendent, and other American employees of La Abra Company, were never molested nor interfered with by the authorities, nor by the people; and whether it is true or false that the superintendent of said company, Mr. Exall, was arrested and imprisoned there, and the works of claimant paralyzed by reason of said molestation; and whether it is true or false that the mule trains of supplies belonging to the Abra Company were captured or impressed by the military of the Republic, on the road from Mazatlan to Tayoltita; and whether or not one of the officers of said Abra Company, Mr. Grove, the captain of the company's supply trains, was actually killed, or murdered, by said Mexicans, while on the road between Mazatlan, Sinaloa, and San Dimas, with a mule train of supplies for said company; and, finally, whether there was any such thing known there as ample protection to the lives of the American employees, and the property of said company, or other Americans, or whether any effort was made by Mexican authorities to extend such protection to them; or if you know whether other American companies than the Abra were driven away from their works by like interferences and molestations by Mexican authorities, and by what authorities, and whether any of the officers and other American employees were actually killed by said disturbances or not?

Answer. I do not know the quantity or value of said ores extracted, nor of the mines abandoned by claimant. I never visited the mines of that company, and, of course, I can say nothing as to their value, except by hearsay. I did not go to that country until after the troubles and molestations of claimant, named in the
214 question, had taken place, but I can say that the said killing of Mr. Grove, an officer of that company, by the said Mexicans; the collection of prestamos by the authorities, and other molestations and interferences named in the question; the arrest and imprisonment of Mr. Exall, the company's last superintendent there; the murder and wounding of a number of American officers of the "Carmen Mining Company," a few miles distant from San Dimas, and the breaking up of its mining enterprise, also in consequence; the driving away of its American employees, and other similar disturbances of Americans in that mining region, named in the question, were matters of common talk there, after I went to San Dimas, and some of those disturbances, molestations, and murders were publicly well known, and commented upon freely by Mexicans there, and I believe them to be true. As for the question of protection, I never witnessed any effort on the part of Mexican authorities to extend any such protection as that named in the question, and to a person who has lived in that country as long as I did, it is rather a novel thing to hear it said that Americans were better protected in life and property than Mexican citizens, and especially in that district.

There was, in reality, no protection given to foreigners in that country, and I never knew any effort to be made by the authorities there to extend protection to Americans who were at variance with Mexicans, excepting only in cases where the profits of the mining enterprise were shared by said authorities.

Question 15. Were you, or not, well acquainted with said Martias Avalos; and if yea, was he, or not, a reliable man, and what was his character, good or bad, for truth and veracity, in that district?

Answer. Yes—I know him well, and I had business relations with him during my entire residence in that district. He was a laborer in that district, and had once been mail-carrier, but he was for more than a year acting occasionally as mail-carrier and

as my servant. He was an honest, reliable man, of good character for truth. He was regarded there, as I believe, by all who knew him, as an honest, industrious, and reliable man.

Question 16. Was said Martias Avalos, or other laboring men or miners in that district, of sufficient intelligence in law matters to know the meaning of the term "extrajudicial?"

Answer. No; I should think not. Neither Avalos, nor any other of those Mexican laborers, would know anything of such law terms, nor of their application.

Question 17. Did you or not know Jesus Torrez, Guadalupe Soto, Refugio Fonseca, Julian Romero, Paz Gurrola, Martin Delgado, Francisco Acosta, and Miguel and Arcadia Laveaga, all of whom are reported as witnesses for the defence in this case; and if yea, who were they, where did they reside, and what was their occupation during your residence in said district?

Answer. I do not know where Refugio Fonseca resided; he did not reside in San Dimas. Ygnacio Manjarrez, as I was informed, moved to Ventanas, and thence to Durango city, after selling his interest in the mines of the Abra Company. I saw him once in the district of San Dimas, during the years I resided there. He was then only visiting there, and was entertained, at San Dimas, by Miguel Laveaga, for a day or two. Julian Romero resided at La Cueva, in a cave, as a ranchero, which was about fifty miles from San Dimas, on the road to Durango. Paz Gurrola and Martin

Delgado resided at the said town of San Dimas, and were occupied as merchants, so-called, there. They sold mescal, corn, beans, cigarettes, and soap.

Jesus Torrez was a lawyer in the city of Durango; and Francisco Acosta also resided at Durango city, and was a merchant there. Miguel and Arcadio Laveaga, father and son, were mine owners, and resided at the town of San Dimas while I was there, and for many years before, as I was informed. Arcadio was also a merchant. Arcadio Laveaga had several times held government office there, and was gefe politico, or chief magistrate, when I was at San Dimas. Guadalupe Soto was local judge at Tayoltita, and it was notorious that he resided at the hacienda of claimant, the Abra Company, after that company was broken up there.

Question 18. Have you any interest, direct, contingent, or otherwise, in the claim of La Abra Silver Mining Company, in behalf of which your deposition is here given, or are you now, or have you ever been agent or attorney for claimant, or for any person having such interest?

Answer. No; not at all. I have no kind of agency or interest in the case, of any conceivable nature, and never have had.

(Signed)

RALPH MARTIN.

Subscribed and sworn to before me, this 12th day of June, 1874.

(Signed)

R. E. STILWELL,
U. S. Commissioner.

(Seal of U. S. commissioner—Southern district of New York.)

Witnesses:

R. E. STILWELL.
CLIFFORD SAVILLE.

UNITED STATES OF AMERICA,

Southern District and State of New York, City and County of New York, as:

I, Richard E. Stilwell, United States commissioner for the southern district of New York, do hereby certify, that the witness herein, Ralph Martin, of this city, and who is known to me as the person named therein, appeared before me, at the office of the United States commissioner for the said district, at the time stated therein, and was lawfully affirmed by me to state the truth, as a witness on behalf of claimant in the above-entitled matter, and that in answer to said interrogatories, suggested by counsel for claimant, and propounded by me, he deposed and testified as set forth in the foregoing deposition, and that, at the conclusion, said deposition was carefully read over to said witness by me, and that he thereupon confirmed the truth of all the matters and facts therein stated by him, and attached his proper signature to the same in my presence, and in the presence of the subscribing witnesses; and I further certify, that said deposition was written down by Clifford Saville, who acted as my clerk for this purpose, and that said Clifford Saville has this day testified before me, that he has no interest, directly or indirectly, in said claim of the Abra Company, and he is neither agent nor attorney for claimant, nor for any person having such interest; and I also certify, that I have no kind of interest, direct, contingent, or otherwise, in said claim, and that I am neither agent nor attorney for claimant, nor for any person having such interest; and I further certify, that I know said witness,

Ralph Martin, to be a man of responsibility in this city, and of good character for truth and veracity, and that his statements are entitled to full faith and credit.
 216 Given under my hand, and the seal of the United States commissioner for the southern district of New York, this the twelfth day of June, A. D. 1874.

(Signed,)

R. E. STILLWELL,

U. S. Commissioner for the Southern District of New York.

[Seal of U. S. commissioner—Southern district of New York.]

Deposition of General Thomas J. Bartholow.

Rebutting evidence in re La Abra Silver Mining Company versus The Republic of Mexico. Before the Joint American and Mexican Claims Commission in session at Washington, D C., under the Treaty of July 4th, 1868.

UNITED STATES OF AMERICA, STATE OF MISSOURI,
 Office of United States Commissioner, Eastern District of Missouri, City and County of Saint Louis, ss :

Ten o'clock, a. m., June 22d, 1874, before me, Enos Clarke, commissioner of the United States, in and for the eastern district of Missouri, personally appeared Thomas J. Bartholow, of Saint Louis, as a witness on behalf of claimant in the above-entitled cause, and being personally well known to me as a man of responsibility, and a competent witness, and having administered to him the usual oath according to law, to speak the truth in answer to the following interrogatories, suggested by counsel for claimant, and propounded to him by me, with reference to the reported statements of Mexican witnesses, filed by defense in this case, a translated copy of which is handed to this witness and read by him in my presence, and understanding their contents, he deposes and testifies as follows:

Question 1. State your name, age, citizenship, residence, and occupation?

Answer. My name is Thomas J. Bartholow; I am forty-eight years of age; I was born in Howard county, in the State of Maryland, in the United States of America; I am now, and always was a citizen of the United States. My residence is number 916 Choteau avenue, Saint Louis, Missouri, and my occupation is that of President of the "Banking House of Bartholow, Lewis & Co." in said city.

Question 2. Do you or not know La Abra Silver Mining Company, the claimant in this cause, and, if yea, when and how long did you know said company?

Answer. Yes, I know claimant, the said Abra Silver Mining Company. I have known said company ever since its organization, in 1865, having been, myself, one of its originators. I was also the first superintendent of said company's works.

Question 3. State how said company originated, if you know, and how and upon what basis it was organized—for what purpose, and what was your agency, if any, in the matter of its origin and conduct?

Answer. Certain silver mines, haciendas, and reduction works, situate in the mineral district of Tayoltita, in the district of San Dimas, in the State of Durango, in the Republic of Mexico, were brought to the notice of myself, and of several other gentlemen, all citizens of the United States, residing at New York, Baltimore, Wheeling, and Saint Louis, who subsequently became the members and stockholders of this company at its formation by General William H. Smith, who was himself owner
 217 of a valuable mine in the same district of Tayoltita; he was agent for the owners of said Abra property, and was sent to New York by the owners, Don Juan Castillo de Valle, and Ygnacio Manjarrez, of San Dimas district, Durango, Mexico. We heard and considered the proposition of said agent, which was to sell and dispose of half or two-thirds of said property, in order to raise money to enable said owners to purchase a stamp mill, modern machinery and appliances, with which to work said mines on a larger scale. We had also noticed the flattering accounts of the wealth of said mines, by Baron von Humboldt, and by the English explorer, Ward, in his history of the successful working of said mines at Tayoltita by the celebrated Zambrano. He, Smith, referred to the good prospect of protection by Mexican authorities there, who would, he thought, certainly obey the recent proclamations of the Mexican Government, inviting foreign capital and labor there to develop the resources of that country, mineral and agricultural, and after maturely considering the question, we called a meeting of capitalists, being one of them myself, who subsequently became stockholders in said company. We resolved to investigate the matter, and said gentlemen voted to send David J. Garth, one of the stockholders, and myself, to investigate the same by a thorough examination of said mines and property at Tayoltita, Mexico, with instructions, that if we should find said mines and haciendas as represented, and the prospects of realizing upon our investments, and of

receiving the protection of said authorities, as flattering as represented in said proclamation of the Mexican Government, that we should then make said purchase, to the best possible advantage in our judgment, before returning to the United States; and that said capitalists should then form a corporation, to own and work the same, which was subsequently done. Said agent, William H. Smith, was duly commissioned by said owners, De Valle and Manjarrez, to sell said property, subject to a reserved interest which they wished to retain, and in case that could not be done, he was authorized to sell their entire interest, I think for one hundred and fifty thousand dollars, said owners not having the necessary capital to purchase a stamp mill and other modern machinery, and to transport the same from the United States to their said mines, in Mexico, for opening and working the same upon the scale demanded by their importance. We did not purchase of said agent at New York, as we considered the enterprise and investment too large to make, without a thorough examination of said mines and property, upon the ground.

Mr. David J. Garth and myself accordingly proceeded to Mexico, in the month of March or April, 1865, via Panama and the Pacific coast, and, in the month of June, 1865, we arrived at said mines, near Tayoltita, Mexico, and, as instructed, we thoroughly examined said mines, and their ores, and we tested the richness of the same, by reducing to silver, average samples taken out by us promiscuously from "La Luz," "El Rosario," "El Cristo," "La Talpa," and other mines belonging to said property; we also tested an average lot taken from "La Abra" mine, which we subsequently purchased from J. V. Hardy and a Mr. Luce; we also thoroughly examined the haciendas and old reduction works of said owners, Don Juan Castillo de Valle and Ygnacio Manjarrez, before we made them an offer for said property, which we finally purchased, paying the said owners, De Valle and Manjarrez, fifty thousand dollars in gold coin for said mines, and seven thousand dollars in gold coin for their improvements, mining tools, furniture, and all other personal property belonging and appertaining to said hacienda, "San Nicolas," and its reduction works, making fifty-seven thousand dollars in gold coin, which we paid for said mines and property, into the hands of said Don Juan Castillo de Valle, for himself and as attorney for said Ygnacio Manjarrez, his partner, over the counter of the banking-house of "Echeguren, Quintana & Company," of Mazatlan, Mexico, who paid to said owners for claimant, in my presence, the fifty-seven thousand dollars, gold coin, said bankers accepting my drafts for the same, which were duly honored and paid upon presentation by them at San Francisco or New York, I do not now remember which. We then took from said owners the legal and original evidences of denoucement and possession, and the title deeds of said mines and property, in the name of said Garth and myself, for the reason that said Abra Company was not, at that time, formed or legally organized, and we also purchased of J. V. Hardy and said Luce, twenty-two twenty-fourth parts of the "Abra Mine," for which we paid twenty-two thousand dollars gold, and we received from them the legal denoucement papers and title deeds to the same, which title deeds I forwarded to the proper officers at the city of Durango, for record.

Said Abra Mine was lying immediately contiguous to said mines which we purchased of De Valle and Manjarrez, and was also considered of great value, as it had been previously worked with immense profit by said Zambrano, as represented to us by every intelligent person to whom we spoke on the subject, in that country, who were well informed as to the history of said mine, which is also favorably mentioned and referred to in "Ward's Mexico," as one of the mines worked, "in bonanza," by Zambrano. We then reported said purchases, and all the facts exactly as they existed there, to said gentlemen, capitalists, all of whom were intimate acquaintances, and some of them personal friends and relatives of said Garth and myself, and thereupon they formed said Abra Silver Mining Company, and organized the same under the general mining laws of the State of New York, to work said mines in Mexico, which organization was perfected on the eighteenth (18th) day of November, 1865, and said mines and haciendas were duly conveyed to said company, by said Garth and myself, we being amongst the very largest stockholders of the same. In answer to that part of the question as to the reason why, or for what purpose said company was organized, I can say that it was organized in good faith, and upon a strictly cash basis, and one of the strong inducements to undertake this mining enterprise was the inviting and attractive proclamations of President Juarez, of the Mexican Republic, adopted by the State authorities of Durango and Sinaloa, offering, as they did, ample protection to foreigners and their capital, and exemption of taxes, port dues, &c.

After receiving the legal titles to all of said property, as we did, without any reserved interest to said former owners, the said Garth immediately returned to New York, and I proceeded to the city of San Francisco, Alta California, and I there purchased, for and in the name of said company, as the same had been determined upon by said Garth and myself, a ten-stamp mill, and other machinery and modern appliances for running or working the same at said mines; and I also purchased provisions

and supplies of every kind and description, needed by the officers and employees, which could not be purchased to advantage in Mexico, and I shipped the same to the port of Mazatlan, Sinaloa, by steamships and sailing vessels, and from there said machinery and supplies were transported by mule trains, over the mountains of Sinaloa and Durango, to the said hacienda of La Abra Company, San Nicolas, near to 219 Tayoltita, and I commenced, as superintendent, the work of erecting a mill-house for said stamp-mill, a new hacienda adjoining the old hacienda, San Nicolas, out-houses for officers and employees, and the opening of said mines, with general preparations for carrying on said mining enterprise on a large scale, as was anticipated by said stockholders. In the mean time, the said Garth and myself had reported to said stockholders, at New York, our entire action and conduct in the matter of said purchases and preparations, which reports were accepted and fully approved by said stockholders, who, upon the organization of said company, appointed me as their first superintendent of their said mining operations, and requested me to remain as such superintendent until said works were fairly started, and in successful operation. I had already requested said stockholders, and subsequently the company, after its organization, to appoint a superintendent to relieve me, as my business in St. Louis was of greater importance to me than my interest in the mining enterprise. My successor was appointed, and relieved me at said mines, in the month of May, 1866.

Question 4. Who succeeded you as superintendent?

Answer. Colonel Julian A. De Lagfiel.

Question 5. When said De Lagfiel, your successor, arrived at the hacienda and took charge as superintendent, were there any ores in and about the patios of the hacienda? and if yes, state as to their amount, kind, and quality.

Answer. At the time said De Lagfiel took charge, and I ceased to be superintendent, there was but a small quantity of ores at the patios of the hacienda, for the reason that the work principally done by me was in purchasing and transporting to said mines, the stamp-mill and machinery, powder, quicksilver, provisions and supplies, erecting said buildings, and opening the mines as aforesaid. There was some mining done by me, and under my direction, in re-opening the mines and placing them in working order. The ores thus obtained were carefully assorted, packed to the hacienda and piled up in order for beneficiation, possibly to the amount of two hundred tons or a little more, all of which were of good quality, and their value in pure silver, per carga, was from three to fifteen marks, or an average of eight or nine marks per carga. This I know to be true, from experimental assays of average lots so assorted and tested by me.

Question 6. State if it is true that "an agent or commissioner" was ever sent by said Abra Company, or by any of its stockholders, or representatives, or if any such "agent or commissioner" came to examine into said mining enterprise of the company at Tayoltita, during your superintendence of the same, or at any time after your purchase of said mines, up to May, 1866?

Answer. No. No such agent or commissioner was ever sent by said company, and none ever came to Tayoltita, nor to the said mines or works of the company, during the time stated in the question, nor at any other time, for no such examination into said enterprise was ever ordered or contemplated by the company, nor by its stockholders, as all of their acts, pertaining to the interests of the company and its mining enterprise, were known to me.

Question 7. Refer to Exhibit 3, of the defensive testimony now shown you, in which is presented by the defence, a letter of "Jesus Torrez, licentiate," and endorsed by "Francisco Acosta, a merchant," before the juez de paz, of Durango, on the 31st day of July, 1872, in which it is stated in substance, "that these Americans, 220 (meaning yourself and D. J. Garth, as representatives of the Abra Company), offered a Spaniard, named Juan Castillo de Valle, the sum of fifty thousand dollars for the Luz and Rosario mines, the only ones that were worked at that time, and agreed to make the offer good, provided they should succeed in forming a company in the United States;" "that they afterwards returned and bought the mines in the price as before stated, and gave to the enterprise the name of 'La Abra,'" that he, Torrez, had "lived about ten years in the said district of San Dimas, and well informed in regard to said mines, and knowing that they only yielded from eighty to one hundred cargoes of ore per month, and being well aware that the said D. Juan Castillo had been working them for ten years without any profit whatever, could not help but show that said Americans had been away for the purpose of deceiving the capitalists of the United States, in order to carry into effect a profitable speculation for themselves;" "that this is really the truth of the business, I was convinced from the movements of said Americans themselves, for they did not go to work in the mines in a regular way, but rather failed to observe the smallest details usually taken into account in the working of mines; that their first operation was to pile up a lot of 'tepetate,' or rock that does not yield silver, to the amount of from ten to fourteen thousand cargoes, which they denominated 'ore;' that this was heaped up and covered over with about three or four hundred cargoes of real ore, in the

hacienda of Tayoltita, and all of it designated as ore by them, in order that it might be seen by an agent or commissioner who came from the United States for the purpose of examining into the enterprise on behalf of the company in that country;" "that such being the fact, it afterwards turned out that the ore failed to yield as much silver as had been calculated upon, which fact naturally gave rise to the supposition that they had been robbed by their employees, with the knowledge of the authorities, which is entirely false, as can be fully substantiated by going to the hacienda of Tayoltita, where the pile of rock alluded to can still be seen, without any one taking the slightest notice of it;" "that the foregoing is all the information I can give you, in answer to your letter of this date;" "that D. Francisco Acosta, of this city, is perfectly well informed in regard to this matter, and D. Juan Castillo, as well as D. Miguel, and D. Arcadio Laveaga, D. M. Delgado, and D. Camilo Contreras, of San Dimas, and finally, all the residents of that place." "I am," &c. (Signed) "Jesus Torres."

13th question. What have you to say with regard to the statements of said Torres, above quoted; who are said Torres and Acosta, and where did they reside?

Answer. The whole of the above-quoted statement, in said letter of Jesus Torres, is a pure invention; it has no ground work in truth whatever, as no such circumstance ever occurred at the "hacienda of Tayoltita," or at the company's works, as that related in said letter. It is false that the company's first operation was to pile up a pile of "tepetate," or "rock that did not yield silver," to the amount of ten to fourteen thousand cargas, or any other quantity, "which they denominated ore," and which they "covered over with about three or four hundred cargas of real ore," or any other quantity of the same, nor could such a thing have taken place there without my knowing it, for the "first operations of the company," spoken of in said letter, were conducted by me, as the company's superintendent, and if any such foolish and useless fraud, or intention of fraud, had been committed there, it must have been done by me. I have already stated that no such agent or commissioner

221 was ever sent there by the company, nor by any of its stockholders or representatives, and no such agent or commissioner ever visited said mines or works, to my knowledge. I have already stated the quantity of ore taken from the mines during my superintendence, and packed to the hacienda at San Nicolas. I know of no other ores or "tepetate" at or near said hacienda, nor on the premises of said company, except a small lot of about forty tons of ore, which were there when I took possession, and owned by Don Juan Castillo de Valle and Ygnacio Manjarrez, the former owners, and which were reduced by them, with my consent. There was no occasion for any such commission, nor for practicing the deception spoken of in said letter, as the mines were bought by said Garth and myself at our first visit to Tayoltita, and were fully paid for in gold coin, and in good faith by us, but a few days after the purchase of said mines and property, as aforesaid. Mr. Garth and myself were fully empowered to purchase said property, upon our own judgment, which we did do, without returning to the United States to consult the stockholders or capitalists aforesaid. Mr. Garth never visited said mines and property at Tayoltita but once, and the said purchase was made at that visit; and I never returned after that to said mines and hacienda until I returned as superintendent, to put up said stamp mill, which I purchased at, and shipped from San Francisco to said mines, as I have stated, and this I did before I returned home to the United States, without consultation with any other person than said Garth, and without any further advices or instructions than those given by said capitalists at New York, which were full and ample at the time said Garth and myself started for Mexico; so that there was no ground, necessity, or sense in practicing deception, nor for piling up "tepetate" and covering it up with good ore, for, in addition to the dishonor attaching to such an operation, it would have been utterly senseless, as we would have been simply deceiving ourselves by so doing, and nothing to gain by it, for so great was our confidence in this mining enterprise that, upon my own suggestion, the company was organized and the stock issued strictly upon a cash basis, at its par value of one hundred dollars per share in gold coin, and neither the company nor its stockholders ever contemplated selling their said mines and property at Tayoltita, nor did they ever place the stock of the company, or any part of it, upon the market for sale, nor offered the same for sale, but, on the contrary, it is still held and owned by the same parties who originated and organized said enterprise, except in one or two instances of transfers of small amounts of stock where parties were not able to hold it.

I invested, at the organization of the company, five thousand dollars in gold coin, for fifty shares of said stock, which I soon after increased to nine thousand dollars, and subsequently to sixteen thousand dollars, gold coin, for one hundred and sixty shares of said stock, and the said David J. Garth, and his brother, John Garth, and his cousin, Dabney C. Garth, took two hundred and fifty shares of said stock; for which they paid twenty-five thousand dollars in gold coin; and both the said David J. Garth and myself, and George C. Collins, the President of the company, and William L. Hearn, its first President, J. Wilcox Brown, S. F. Nuckolls, John D. Perry, and

other stockholders of said company, after being informed of the great expense attending the opening of said mines, and other preparations for carrying on said enterprise, and of the robberies of the company's mule-trains of supplies and other property by the Mexican military authorities, found it necessary to loan or advance the company large sums of money with which to purchase and replace the same, while said works were going on under the superintendence of Mr. Exall, thereby showing our continued confidence in the value of said mines, and the good prospects for realizing upon our investments, if protected, still clinging to the hope that the company might be better protected at the close of the war then pending there, and that upon completing its extensive mining preparations, the company would soon be able to realize upon its heavy investments; but in these expectations we were disappointed, as the result has shown, and owing to the expulsion of the company from its mines and property, and the unexpected termination of its business, the sums of money so advanced by the stockholders still remain unpaid, to my knowledge. It is not known to me where said Torres and Acosta reside, nor who or what they are; neither of them ever visited the company's works or mines while I was conducting said works at Tayoltita, to my knowledge; it is therefore difficult for me to perceive how either of said persons could know what took place during the "first operations" of said company, which were conducted by me. These facts render the contents of this Torres letter too ridiculous and absurd for further notice.

Question 8. Say whether, in building the new hacienda, the old hacienda, San Nicolas, was torn down or destroyed, or any part of the same molested or impaired?

Answer. No; I commenced to build the new hacienda, adjoining the old one, without taking down or destroying any part of the old hacienda, "San Nicolas," or other buildings and improvements found there at the purchase of said property. No such tearing down or demolition of the old buildings was ever thought of or contemplated by me; nor was it necessary, to give room to the new buildings and other improvements, as we found it necessary to extend the mill-races, and to put up the mill-house and stamp-mill about three hundred feet from the old reduction-works, and made use of the old patios as a convenient place upon which to pile up the assorted ores.

Question 9. Did you know one Leandro Molina? and, if yea, did he ever work for the company under your superintendence?

Answer. No; I did not know said Leandro Molina, and never heard of him. I am satisfied he never worked for the company whilst I was superintendent.

Question 10. Is it true, as stated by Pio Quinto Nunez, and Cepomucino Manjarrez, or other witnesses in said defensive testimony, that said company was never disturbed in their mining operations by Mexican authorities or people; that they were not denied the protection of the authorities of Mexico, in Durango, nor in Sinaloa; that mules or mule-trains were never captured and taken from said company, by force, by said authorities; and, if not true, state how and why said statements are not true?

Answer. No—such statements are wholly untrue; on the contrary, two entire mule-trains, loaded with provisions and supplies, belonging to said company, were captured by the military authorities of the Mexican Republic; and the mules and supplies so captured and taken by force, were appropriated to the use of said army, and I never was able to recover any of said mules or supplies, nor did said Abra Company ever receive any indemnity or compensation for the same, although I applied to General Ramon Corona, the chief in command of said forces on the Pacific coast, to restore to the company the property so captured by his subordinate officers, and at the

same time implored protection from him against further depredations of that character against the property of the company. He responded to said appeal by referring me to the commanding officer at San Ygnacio, Sinaloa, under whose military jurisdiction the property was seized. I visited said commander at San Ygnacio, whose name, I think, was General Guerra, or General Parra—I do not now recollect which of the two was then commanding at that point. I knew them both, and a number of other officers of said army, whose troops had committed similar depredations, and had levied other "prestamos" upon the Abra Company, while under my superintendence. I related the circumstances attending said captures, or robberies from the company, and of the murder of the company's quartermaster, who was acting as captain of said mule-trains, to said commanding general, but he refused the protection I asked on behalf of the Abra Company, and he refused to order a return of said mules and supplies, or to indemnify the company for the same. He stated that he had no authority to indemnify the company, and that it was too late to restore the property, as it had passed out of his control. He also refused to instruct the authorities at San Dimas, and Tayoltita, as I requested him to do, to protect the Abra Company from further depredations upon its property and mines in that district. It is not true that said company was not disturbed in its mining operations while I was superintending the same. During my superintendence of said company's works, our employees were frequently interfered with by the local authorities of said district, and, on two or three occasions, they actually went into the mines and discharged the men engaged in labor, upon the pretext that we did not employ all the men in the

district who were out of labor, and that we did not work the mines to suit them. I had many such difficulties to encounter with the local authorities, which seriously interfered with the operations of the company, which caused me to appeal to the Governor of Durango for protection against the unwarranted acts of the local authorities, who refused to interfere, or to afford any protection to the company. I also appealed to the prefect of the district, whose name, I think, was Laveaga, with the same result, for I soon ascertained that he was a bitter enemy to all Americans, and opposed to their working the mines of Mexico. I was also compelled by the military authorities of the Republic, under the command of said General Corona, to pay a number of "prestamos," or forced loans, levied upon said Abra Company's stamp-mill, machinery, and supplies, from three to six hundred dollars each, one of which, for six hundred dollars, was paid for me by William G. S. Clark, of Camacho, Sinaloa, an English gentleman who was owner of a large estate at Camacho, and who assisted me, as my contractor, in transporting said machinery and supplies from Mazatlan, Sinaloa, to the company's mines in Durango. One of the employees of the company, who had been sent to Mazatlan on business, was robbed by said military authorities, near Camacho, in Sinaloa, while on his return from Mazatlan to the company's works, of eleven hundred and seventy-eight dollars of the moneys of the company, which amount never was repaid to the company, nor was the company ever indemnified for the same in any way. I recollect the exact amount taken, because I entered the same on the books of the company, charging the same to the "robbery account," where other "prestamos" and robberies were entered. The name of this employee who was so robbed of the company's money, was George Scott, commonly called "Scotty." This transaction was nothing less than highway robbery by 224 said troops, and was in addition to the several "prestamos" levied and enforced by the military authorities, which, I have said, ranged from three to six hundred dollars. The amount of cash "prestamos," so levied and enforced during my said superintendence, amounted to a little more than three thousand dollars, but the value of the mule trains and supplies so taken from the company by the said military, while I was superintendent, was not less than twenty-five thousand dollars. It is not true that the company ever had protection from any of the Mexican authorities, either national or local, nor any offer of protection, when applied for by me and other officers of the company under my superintendence.

Question 11. Who and what was said Cepomucino Manjarrez, where did he reside, and what did you know of him?

Answer. He was said to be a brother of Ygnacio Manjarrez, one of the former owners of said mines and property. He resided in the mining district of San Dimas. He worked for the company, under my superintendence, as muleteer and packer, and sometimes about the hacienda. He was an intemperate, dangerous, and turbulent character, and at one time was in a conspiracy and headed a mob to seize the hacienda, and to drive me and my American employees out of the country. They gathered around the hacienda, with machetes in hand, but did not make the attack, as contemplated. Having ascertained all about the plot, I sent, the next day, for said Manjarrez to come to the office of the hacienda. He came, and I told him what I had learned—that he was one of the ringleaders of the mob to kill or drive me out, the night before, which he confessed to be true, but said that he was led into the conspiracy by other parties, and I thereupon discharged him from the employ of the company, and he left.

Question 12. Is it true, as stated by one of the witnesses for defence, in substance, that the Americans sent to Tayoltita, to direct said mining operations, were ignorant of their business, and that they went to work at the same improperly, and without observing the laws and usages governing such mining operations?

Answer. No, it is not true in any sense, for the superintendents and subordinate officers of the Abra Company were qualified for their positions, both by a knowledge of the science and practice of such mining operations; and said works, while I was superintendent, were conducted properly, skillfully, and lawfully, and in strict accordance with the usages of such mining operations, by machinery and other modern appliances, such as we introduced there.

Question 13. Were you, or any of the American employees under your control, as superintendent of said mining operations, ever guilty of any disobedience to the laws of the Republic of Mexico, or of the States in which said mines and property are located, or did you ever interfere, in anywise, with the political affairs of that country?

Answer. No; certainly not.

Question 14. You have spoken of the murder of one of the employees of the company who was in charge of mule trains of supplies for the company; state the name of the employee who was so murdered, and when and where the same occurred, and the circumstances attending said murder. Also state what became of the train and supplies that was the special charge of the murdered employee?

Answer. His name was William Grove; he was one of my most valued employees; he was murdered between the town of San Ygnacio and Tayoltita, I

afterwards recovered his body; it was badly mutilated by gun-shot wounds, evidently produced by a volley of musketry. This occurred in January or February, 1866. At the time of the murder Mr. Grove was in the employ of the Abra Company, as quartermaster, and was entrusted with the charge of one of our mule trains, used for transportation of supplies. Mr. Grove was murdered by soldiers of the Republican army. The train that was the special charge of Mr. Grove, was taken possession of by the military authorities, with its entire outfit and supplies, all of which were totally lost to the Abra Company. The mule trains owned and worked by the company, at that time, were three in number, aggregating about one hundred and fifty mules; the train so taken, was one of the three here mentioned.

Question 15. Is it true that extravagant or unreasonable salaries or wages were paid to the officers, or to the American, or other employees, in the conduct of said works, during your superintendence of the same, as stated by one of the witnesses for the defence?

Answer. No, that is not true. I paid only the usual salaries and wages to such employees. The price paid by me for skilled labor there, in building, and mining for said company, was even less, much less than was paid for the same services in Nevada and California.

Question 15. What were the opportunities of said Mexican employees of the company, at the mines, or at the reduction works, or of other Mexicans residing at San Dimas, for knowing the business of the company—how it was managed by the superintendent, or what salaries were paid American employees who conducted said works?

Answer. They had no such opportunities, and they knew nothing about such business matters of the company. The most of the Mexican laborers at the mines of the company, only came to the hacienda once a week, excepting the times when they were interfered with and discharged from the employ of the company, by order of the prefect or jefe, which I have mentioned; and neither said laborers at the mines, reduction works or elsewhere, knew anything about the salaries paid to said American employees, or of the other business of the company's superintendent, except by mere unreliable hearsay reports. San Dimas is fifteen miles distant from the company's works near Tayoltita, and, of course, persons residing there could know nothing of the company's business, except by hearsay. All conversations regarding said works, and the business of the company, were carried on in the English language exclusively, between said American employees and myself, and none of said Mexican employees understood or could speak the English language, and although I understood and spoke the Spanish language, and gave my orders to Mexican employees in their own language, I habitually refrained from talking to them about the business affairs of the company, or making any exposure of the business or conduct of said works, to said laborers, or any one else.

Question 16. State how many employees you had in the company's service, upon an average, during your conduct of said works, and how they were supplied with provisions; how far said provisions and other supplies for carrying on said works had to be transported, and whether it would have been possible for the company to have carried on said works, on the scale upon which the same were operated, without owning and working mule-trains for transporting said supplies to the company, and its ores to the hacienda?

226 Answer. I employed from one hundred to one hundred and sixty mechanics, miners, and laborers, including muleteers, during my superintendence; they were supplied with provisions purchased in, and packed from the city of Durango, and from the valleys of Sinaloa, to the company's works at Tayoltita. Other supplies, such as powder for blasting, quicksilver, fuse, mining tools, also bacon, flour and butter, were purchased at and shipped from San Francisco, California, to Mazatlan, and thence by pack-mules to the company's works aforesaid. The distance from Durango to Tayoltita was one hundred and sixty miles, or more, and the distance from Mazatlan to the company's works was about the same. Some of the provisions used, such as meats, lard, salt, and other small supplies, were purchased for me by my contractors, in the valley of Sinaloa, of whom I now recollect José Maria Loiza, of San Ygnacio, as one of the principal contractors for making said purchases. The average distance of said valley towns from the company's works was about one hundred miles.

In carrying on works of that magnitude, it was, of course, absolutely necessary for the company to own and work large numbers of mules, which it did, as I have stated. Mule trains furnished the only possible means for the transportation of supplies.

Question 17. What, in your judgment, was the value of said mines and property of La Abra Silver Mining Company, and what amount of actual damage and loss has the company suffered from its forced abandonment of, or expulsion from the same?

Answer. The said mines and property of La Abra Silver Mining Company were worth, in my judgment, three millions of dollars, provided the company had been protected by the Mexican authorities in carrying on said works as commenced. From my examination of the said mines, which was thorough and critical; my observations in re-opening them and preparing them for work; the richness and abundance of the

ores thus developed; the capacity and reliability of the stamp-mill and machinery erected; the richness of the ores of said mines, as shown by the experimental tests made by me, the company would have readily realized in net profit, annually, a fair interest upon three million of dollars, and, in my best judgment, the company has sustained damages to the amount of at least three million dollars, on account of the forced abandonment of their said mines and property.

Question 18. What exhibits were made to you, if any, by the former owners of said mines, Ygnacio Manjarrez and Don Juan Castillo de Valle, with reference to the value of said mines, the richness and abundance of their ores, and the profits with which they were worked by them, previously to the sale or transfer of the same by them to yourself and D. J. Garth, as agents for said Abra Company?

Answer. The parties named in the question, Ygnacio Manjarrez and Don Juan Castillo de Valle, represented to the said Garth and myself, both before and after the purchase of said mines and property, that the said mines "El Rosario," "El Cristo," "La Luz," and its appurtenances, "El Arayan," with "Talpa" and "El Sanz," among its appurtenances, were among the most valuable of all the mines of Durango and Sinaloa, and they, said Manjarrez and De Valle, produced and exhibited to said Garth and myself their books, in which was written down and stated, with particularity, the profits with which they had worked said mines for a number of years pre-

ceding said sale, showing that the ores from said mines, which they had reduced, averaged them from six to ten marks per carga of pure silver, with an addition of about 10 per cent. of gold; and they represented to said Garth and myself, at the same time, that if said mines were worked on a larger scale, and with improved machinery, (such as we then contemplated erecting, and subsequently did erect on said premises,) they that they would produce much larger profits, and they stated that the metals which had reduced from said "El Rosario" mine had yielded them an average profit of eleven marks, or one hundred dollars per carga of three hundred pounds, in pure silver, with an addition of ten per cent. of gold; and during our examination of said mines, and immediately before we made said purchase, they blasted and took out an average lot of ores from said "La Luz" mine, and reduced the same in the presence of said Garth and myself, as tests of the value of said mine and its ores, and the same yielded, of pure silver, six marks per carga of three hundred pounds, and they represented the veins of ore in said mines as being inexhaustible in supply; which, from my subsequent examination, I believe to be true.

Question 19. State how you know who are the present stockholders of the Abra Company, as stated by you in your answer to question number 7?

Answer. Because assessments have been made by the company from time to time since the celebration of the treaty of July 4, 1868, under which this claim is presented, which assessments were made, *pro rata*, against the individual stockholders, for moneys with which to prosecute this claim for damages against the Mexican Government, and a correct list of the said stockholders, with the amount of stock held by each of them, together with the amount so assessed, and also giving the residence of each stockholder was furnished me by the secretary of the company, at each assessment, from 1869 up to the present month. Therefore, what I have before stated, that the stock of the company is still held by the original stockholders, with one or two exceptions of small amounts, as I have before stated, is entirely reliable.

Question 20. Are you now agent or attorney for said company, or have you any other interest, direct, contingent, or otherwise, than that which you have already stated, in the result of this suit?

Answer. No; no other interest than that stated; and I am not agent nor attorney for said company, nor for any party in interest.

(Signed)

THOS. J. BARTHOLOW.

Attest: (Signed) HANNIBAL LOEY.

JOHN D. STEVENSON.

Subscribed and sworn to before me, this 23d day of June, 1874.

(Signed)

ENOS CLARKE,

U. S. Commissioner, Eastern Dist. Missouri.

[Seal of U. S. commissioner—Eastern dist. Missouri.]

UNITED STATES OF AMERICA, EASTERN DISTRICT OF MISSOURI,
City and County of St. Louis, ss:

I, Enos Clarke, United States commissioner, in and for the eastern district of Missouri, do hereby certify that Thomas J. Bartholow, the witness who subscribes to the foregoing deposition, and who is personally well known to me as a prominent banker and citizen of the city of Saint Louis, and who is a man of responsibility and of excellent character as a gentleman of truth and veracity, personally appeared before me, at the office of United States commissioner for said district, and, having been introduced as a witness for claimant in the above-entitled cause,

and having been first duly and lawfully sworn by me to state the truth in relation to the same, that in answer to the foregoing interrogatories suggested by counsel for claimant, and propounded by me, he deposed and testified as set forth in the foregoing deposition; and when concluded, that said deposition was carefully read over to said witness by me; and that he thereupon confirmed and ratified the truth of all the matters and facts therein stated by him; and attached his proper signature to the same, in my presence, and in the presence of the subscribing witnesses; and I further certify that said deposition was written down by John D. Stevenson, who acted as my amanuensis for this purpose, and that said John D. Stevenson thereupon testified before me that he had no interest, directly or indirectly, in said claim of the Abra Company; and that he is not agent or attorney for claimant, nor for any person interested in the same; and I also certify that I have no kind of interest, direct, contingent, or otherwise, in said claim, and that I am neither agent nor attorney for claimant, nor for any person having such interest; and I further certify that said witness, General Thomas J. Bartholow, being a well-known citizen of said city of Saint Louis, is publicly well known here as a credible witness, and that his statements are entitled to full faith and belief.

Given under my hand, and the seal of the United States commissioner for the eastern district of Missouri, this the 23d day of June, 1874.

(Signed)

ENOS CLARKE,
United States Commissioner, Eastern District Missouri.

UNITED STATES OF AMERICA,

Circuit Court for the Eastern District of Missouri, as:

I, Austin Drake, clerk of the circuit court of the United States, in and for the eastern district of Missouri, do hereby certify that I am well acquainted with the handwriting of Enos Clarke, esquire, whose name is subscribed to the annexed deposition, and that the signature to the same is in his proper handwriting.

And I do further certify that he was, at the time of signing the same, a United States commissioner, duly appointed by the circuit court of the United States for the eastern district of Missouri, eighth circuit.

In witness whereof, I hereunto subscribe my name, and affix the seal of said court; at office, in the city of St. Louis, in said district, this twenty-third day of June, in the year of our Lord eighteen hundred and seventy-four.

AUSTIN DRAKE, *Clerk.*
By H. C. GEISBERG, *D. C.*

[Seal of the U. S. circuit court—Eastern dist. of Missouri.]

UNITED STATES OF AMERICA,

Eastern District of Missouri, as:

I, Samuel Treat, judge of the district court of the United States, for said district, do hereby certify, that in my opinion, Thomas J. Bartholow, the foregoing deponent, who is personally known to me, is a prominent banker in the city of St. Louis, in said district, and is a gentleman of unquestioned veracity and integrity, whose statements are entitled to the fullest confidence.

Signed on this, the 24th day of June, A. D. 1874.

(Signed)

SAMUEL TREAT.

[Seal of the U. S. district court—Eastern dist. Missouri.]

229 *In the matter of the claim of La Abra Silver Mining Company versus The Republic of Mexico, pending before the American and Mexican Joint Commission at Washington, D. C. Rebutting evidence.*

Deposition of Sumner Stow Ely on behalf of claimant.

STATE OF NEW YORK, *County of Kings, as:*

Before me, Calvin E. Pratt, a justice of the supreme court of the State of New York, at the chambers of said court, in the county court-house, in the city of Brooklyn, in said county, on the twenty-fourth day of September, A. D. 1874, personally appeared Sumner Stow Ely, who is well known to me personally, and who having been introduced as a witness on the part of the claimant, and sworn by me according to law to speak the truth, the whole truth, and nothing but the truth, in the above-entitled matter, deposes and says as follows, to wit:

My name is Sumner Stow Ely; I am forty-eight years of age; I was born in the village of Clarksville, in the county of Otsego, in the State of New York, and have always resided in said State; I now reside at No. 54 West 10th street, in the city of New York, and have resided in said city for many years; my occupation is that of an attorney and counselor at law, and my law offices are at No. 4 Pine street, in

said city of New York, and at No. 44 Court street, in said city of Brooklyn, and I have had a law office in each of said cities for the fifteen years last past.

I know La Abra Silver Mining Company, the claimant in this cause. Prior to the organization of said company, and to the departure of David J. Garth and Thomas J. Bartholow for Mexico in the spring of 1865, I was consulted by them and other gentlemen, who subsequently organized and became stockholders in said company, as to the formation of such company under the general mining act of the State of New York, in the event of the acquisition of the mines and property in Mexico, which said Garth and Bartholow were going to Mexico to examine, and to purchase, if the representations as to their desirability proved true upon examination. After the return of said Garth from Mexico, reporting a purchase, by himself and said Bartholow, of said mines and property, I drew the certificate of incorporation of said company, and, after it was duly signed and acknowledged, caused it to be filed in the office of the clerk of the city and county of New York, and a duplicate thereof in the office of the Secretary of State for the State of New York, whereby said company became and was duly incorporated under said act; and subsequently I also drew the deeds of conveyance, whereby said Garth and Bartholow conveyed said mines and property to said company; from the first inception of said company to the present time, I have been, and am the attorney and counsel of said company at the city of New York, where its general office is located, and my acquaintance is intimate with nearly all of its stockholders; and by these means I know well said company, its business transactions, and the motives which lead to and the means employed in its creation.

The gentlemen who originated said company were merchants and bankers of high social and business repute, and of abundant pecuniary means, and all those who became stockholders in said company were of like character, and nearly all of them in the same business. Said company was formed for the sole and express purpose of carry-

ing on a legitimate mining business in Mexico, as an investment of capital, and
230 in the firm conviction of the parties forming it derived from their general business knowledge and the representations of persons familiar with Mexican mining and the mines in question, and the personal examination made by two of their own number (said Garth and Bartholow), that said business would, for a long series of years, yield immensely profitable returns upon the capital invested therein. At the time I drew said certificate of incorporation, I inquired of the gentlemen who were forming said company, whether their object was to derive a profit by sales and speculations in the company's stock, or by the returns of the business prosecuted in a legitimate way as an investment for capital, at the same time informing them that if the former was their object their course would be (if they followed the usual method when such an end was in view), to fix the amount of the capital stock at a very large sum, and then, to issue the greater part of it to said Garth and Bartholow in payment for the conveyance to be made by them to the company of said mines and property, a correspondingly large price being put upon the same for that purpose; but that if the latter was their object, then their course would be to fix the amount of the capital stock at the lowest sum they thought would be sufficient to pay for the mines and property on their actual cost on the purchase by said Garth and Bartholow, and to make the intended improvements and carry on the business, and then to issue the stock for money. Said gentlemen instantly replied that said company was not to be formed for any stock or other speculative purpose whatever, but as a legitimate and permanent business investment of capital, and they decided that as all the company's expenditures must be in gold, not even the currency of the United States, but gold only should be accepted by the company in payment for its stock, and at its par value. Accordingly, the company was organized and its business conducted upon a gold basis, and purely as a business investment; and in its certificate of incorporation the term of its existence was limited to fifty years, the longest time allowed by said act, and its capital stock fixed at the sum of three hundred thousand dollars, which the parties then supposed would be adequate for purchase of the mines and property, and the construction of the improvements, and the carrying on of the business on the large scale contemplated by them. And so sanguine were the originators of said company of the success of the undertaking and of its very profitable character, that they determined the stock should be taken only by themselves and such of their personal friends as they were willing should share with them in the benefits of the enterprise.

For these reasons the stock of the company was never put upon the market for sale, and the stockholders of the company were relatives, or particular personal friends of each other, and with the exception of three instances of very small amounts of stock which the original holders, by reason of adverse circumstances, were unable to retain, the stockholders of said company at the time of filing the memorial in this cause, and at this time, are the same persons to whom the stock was originally issued by said company. All the stockholders of said company are citizens of the United States of America; all its trustees are such citizens and stockholders; a majority, and all but one of said trustees being citizens of the State of New York, and that one, a citizen of the State of Missouri.

Said company was formed, its expenditures were made, and its business conducted in the most perfect good faith, for the purpose of carrying on a regular and continuous mining business in Mexico, relying solely upon the products of its mines for reimbursement and profit, and in the fullest belief of its originators and stockholders that said business would prove highly remunerative, and they had ample means to conduct it to a successful issue; but the expulsion of the company from its mines and property in March, 1868, utterly ruined the business of the company, rendered its stock entirely valueless, and prevented the company and its stockholders from receiving any return whatever for the expenditures made by them in said enterprise.

Said company never sent an agent or commissioner to Mexico, from the United States or elsewhere for the purpose of examining into the enterprise on behalf of the company; the only persons sent from the United States by said company were Julian A. de Lagnel, and subsequently Charles H. Exall, and they were sent as superintendents, and for the purpose of discharging the duties of that position.

Before the organization of the company, and in contemplation thereof, should the mines be purchased, said Garth and Bartholow, on behalf of themselves and the other parties who intended to be interested in said company, if formed, went to Mexico, as I have already stated, but neither of them returned to the United States before making the purchase. They were empowered to purchase immediately, if they thought best, and without returning or waiting to communicate with the other parties, and if they purchased they were to take and hold title for the use and benefit of the company, until it could be formed and a proper formal transfer made to it. They purchased, taking the titles, of necessity, in their own names, because no company was then in existence, and then, but not before the purchase, said Garth returned to the United States, and said company was thereupon formed, said Bartholow remaining until the following year, (1866,) and meanwhile holding possession for the use of the company, and conducting business in its name and, as its superintendent, until another suitable person as superintendent could be selected and sent forward to Mexico. Such a person having been selected and sent forward, said Bartholow ceased to be superintendent, and returned to the United States in the summer of 1866, but could not come to the city of New York, where said Garth resided and said company's office was located, until October, 1866, for which reason the formal documentary transfer of said mines and property by them to said company, could not before then be conveniently made, and it was at that time made, though the company paid for the same immediately upon its organization, and was regarded as the owner thereof from that time by all the parties.

Said Garth and Bartholow did not, nor did either of them, in or by means of the purchase and transfer of said mines and property, make any personal speculation, for the company paid for the same precisely the sum, and no more, that the sellers received for the same, through said Garth and Bartholow, and the moneys for such payment by the company were obtained from its stockholders for stock issued to them at its par value, in gold, and said Garth and Bartholow being among the largest of such stockholders. They have always been warm advocates and supporters of said company. Mr. Bartholow twice increased, by taking and paying for additional stock, the amount of stock in the company which he originally took, and Mr. Garth induced his brother and cousin to become large stockholders in said company, and they each have advanced large sums of money to the company when its business required it.

Any deception by them in the matter upon the capitalists or other parties interested would have been an immediate and equal injury to themselves; and it is certain that they acted in the matter honestly, and in good faith towards all parties.

I have carefully read a translation of the letter of Jesus Torres, dated at Durango, July 30, 1872, and of the oaths or depositions as to the same, made by said Torres, and by Francisco Acosta, before Geronimo Lido, a juez de paz, at said Durango, July 31, 1872, which letter and depositions are filed as a part of the defensive testimony in this cause, and every statement in that letter, which in any wise conflicts with the statements hereinbefore made by me is untrue.

I am not the agent or attorney of any person interested in the claim of said company, which is being prosecuted in this cause; I am not the agent of said company; I am its attorney at the city of New York, for its general business, as I have already stated, but it has special attorneys at Washington for the prosecution of said claim; and I have no interest whatever, direct, contingent, or otherwise, in said claim.

SUMNER STOW ELY.

Subscribed and sworn to before me this twenty-fourth day of September, A. D. 1874.

C. E. PRATT, J. S. C.

UNITED STATES OF AMERICA,

State of New York, County of Kings, ss:

I, Calvin E. Pratt, a justice of the supreme court of the State of New York, do hereby certify that Sumner Stow Ely, whose deposition is herein above written, attended before me on the twenty-fourth day of September, 1874, at the chambers of said court in the county court-house in the city of Brooklyn, in said county of Kings, and was publicly and duly sworn, according to the laws of the United States of America, and of the State of New York, to tell the truth, the whole truth, and nothing but the truth, in the above-entitled matter, and thereupon he deposed and testified as hereinbefore set forth; that said deposition was carefully read to said Sumner Stow Ely by me, and that he thereupon signed the same in my presence.

I do further certify that said deposition was taken by me in the city of Brooklyn, in the county of Kings, and State of New York, in the United States of America; that I am competent to take depositions by the laws of said State, and the United States; that I have no interest in the claim to which the testimony of said Sumner Stow Ely relates, and that I am not the agent or attorney of said La Abra Silver Mining Company, claimant in the above-entitled cause, nor of any person having such interest.

I do further certify that said deposition was reduced to writing by Henry E. Metcalf, in my presence, who has no interest, and is not the agent or attorney of any person having an interest in said claim.

And I do further certify that I know the said Sumner Stow Ely, the above-named affiant, as a man of good character for truth and veracity, and I hereby certify to the credibility of said Sumner Stow Ely, and that his deposition is entitled to full faith and credit.

DATED, September 24th, 1874.

C. E. PRATT,

Justice Supreme Court State of New York.

233 STATE OF NEW YORK,

City of Brooklyn, County of Kings, ss:

I, George G. Herman, clerk of the county of Kings, and clerk of the supreme court of the State of New York, in and for said county of Kings, (said court being a court of record,) do hereby certify that Calvin E. Pratt, whose name is subscribed to the foregoing deposition and certificate, and thereon severally written, was, at the time of taking such proof or deposition and signing said certificate, a justice of said supreme court of the State of New York, and authorized to take such deposition and sign said certificate, and his acts as such justice are entitled to full faith and credit, and that said signatures of said justice are genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of said county and court, this twenty-fifth day of September, A. D. 1874.

[KINGS COUNTY SEAL.]

GEORGE G. HERMAN, *Clerk.*

UNITED STATES OF AMERICA.

BY JOHN A. DIX, GOVERNOR OF THE STATE OF NEW YORK

It is hereby certified that George G. Herman was, on the day of the date of the annexed certificate, clerk of the county of Kings, in said State, and duly authorized to grant the same; that the same is in due form, and executed by the proper officer; that the seal affixed to said certificate is the seal of said county; that the signature thereto of the said clerk is in his proper handwriting, and is genuine; and that full faith and credit may, and ought to be given to his official acts.

In testimony whereof, the great seal of the State is hereunto affixed.

Witness my hand at the city of Albany, the twenty-sixth day of September, in the year of our Lord one thousand eight hundred and seventy-four.

JOHN A. DIX.

Passed the Secretary's office the 26th day of September, 1874.

DIEDRICH WILLERS, JR.,

Secretary of State.

In the matter of the claim of La Abra Silver Mining Company versus the Republic of Mexico. Rebutting evidence.

Deposition of Alonzo W. Adams, on behalf of claimant.

DISTRICT OF COLUMBIA,

City and County of Washington, ss:

Before me, Edward C. Ingersoll, United States commissioner, in and for the city and county of Washington, District of Columbia, on this 2d day of November, 1874,

personally appeared Alonzo W. Adams, a citizen of New York, and who, having been introduced as a witness on the part of the claimant in the above-entitled matter, and sworn by me in accordance to law to tell the truth, the whole truth, and nothing but the truth in relation thereto, deposes and says as follows, to wit:

My name is Alonzo W. Adams; I am forty-eight years of age; I was born in 234 the township of Caroline, Tompkins county, in the State of New York, in the United States of America, and am and always have been a citizen thereof, and I now reside, and for nineteen years last passed have resided in the city and State of New York.

I know La Abra Silver Mining Company, the claimant in this case, and have been in the employ of said company as their attorney, for the purpose of collecting the evidence in support of their claim in this case, and as such attorney, and for that purpose have been twice to various places in the States of Sinaloa and Durango, in Mexico, and among others to Mazatlan, San Ygnacio, San Dimas, Durango, the capital, Tayoltita, and the haciendas and mines of said company near Tayoltita—the first time in the year 1870, and the second time in the year 1872.

I have carefully read translations of all the depositions which have been filed as defensive testimony in this case, and have said translations now before me, and I know well the contents of all of them, and particularly of those of them which purport to have been given at San Dimas, before Gil Ruiz, by Ygnacio Manjarrez, February 19, 1871; and at the same place, before Cipriano Quiroz, by Maria Cecilia Jimenez, (without date,) by Bartolo Rodriguez, July 25, 1872; by Aquilano Calderon, and Gil Ruiz, July 29, 1872; by Guadalupe Soto, August 6, 1872; and by Dionisio Gutierrez, August 8, 1882.

I am the person referred to throughout these alleged depositions, and particularly in those above specified, as "Alonzo W. Adams," and as the "American General," and sometimes merely as "the General," and "called General." Francis F. Dana is the person referred to in said depositions as "Mr. Dana." Said Dana was an American citizen, but when I went to Mexico, in 1870, he resided at Mazatlan, and it was well known that he had resided in Mexico for many years, and had been a lieutenant colonel of cavalry in the Liberal army, under President Juarez, and, as said Dana understood and spoke Spanish fluently, and was a reliable interpreter and translator, well acquainted with the Mexican people, and was familiar with the country, I employed him as interpreter, and as captain of my guard, and he went from Mazatlan with me as such, to the various places in Mexico which I visited for the purpose aforesaid, in 1870. I am the only person who ever collected, or endeavored to collect, in Mexico, the evidence for said company in this cause, and said Dana and myself, evidently, the "two Americans" meant by the judge at San Dimas, in the 7th question in the said deposition of Ygnacio Manjarrez, and in the 2d question in said alleged deposition of Maria Cecilia Jimenez, which, in brief, ask if two Americans did not offer Santiago Granger \$5,000, with which to buy witnesses in this case. Neither of the witnesses, as it appears by said depositions, had the hardihood to answer said question in the affirmative, and it was, evidently, an unworthy attempt to suborn said witnesses, for the intimation conveyed by said question, clearly showing the answer desired, that such an offer of money was made, is not only false, but there was no kind of groundwork in truth upon which to base such a question.

I have seen said Maria Cecilia Jimenez; I know very little of her, but with the exception that she was at Tayoltita during my visit there, and at the hacienda of the Candalaria Company, near San Dimas, at the time referred to in the said deposition, purporting to have been made by her—every statement contained in that deposition is false, and is either wholly invented, or falsely reported, and I have reason to believe the latter to be the fact.

235 I do not know that I ever saw said Dionisio Gutierrez, and every statement contained in the deposition, which I have mentioned, purporting to have been made by him before said Judge Quiroz, on the 8th of August, 1872, is wholly destitute of truth—a mere invention.

I did not draw or take, by myself or otherwise, at Tayoltita or elsewhere, the deposition or testimony of any person, nor did I ever attempt to do so; nor did I, or any person for me, or for claimant, ever instruct, advise, or suggest to any person what he should say or testify to, and all statements or intimations to the contrary contained in the said alleged depositions—(and in any other, if any other contain such statements or intimations,) are wholly false. What I did do is this, viz: on the evening of the day I reached said hacienda, San Nicolas, about the last of April, 1870 (said hacienda then being occupied by said judge, Guadalupe Soto, with his family, and he then working the mines of the Abra Company), a number of the workmen, among them said Bartolo Rodriguez and Aquilano Calderon, came down from said mines to said hacienda, they having been sent for by me, and not by James Granger, as it is falsely stated in said alleged deposition of Calderon, and I questioned them; and those of said miners who had worked for claimant, then severally and voluntarily stated what they knew about the depredations which had been committed upon the

company's property by the military, and they said they knew of, and witnessed some of the unlawful acts of the civil and military authorities, which had forced the company to abandon their mines and property, and, as Colonel Dana interpreted to me their statements, I took down, in pencil, and in English, brief memoranda of what they said, and solely for the purpose of knowing who of said workmen had been in the employ of said company, and which of them knew facts of sufficient consequence to justify me in asking them to go so far as San Dimas to testify. Aquilino Calderon was not contradicted or questioned by James Granger, as is stated in the alleged deposition of said Calderon, nor was he, or any of said workmen contradicted, prompted, or interfered with in any way by said Granger, nor by Mr. Dana, myself, or any one else; nor was Bartolo Rodriguez, as is stated in his alleged deposition, told by said Granger or myself that "we wanted some depositions in which we were interested in behalf of the company;"—no such statement was ever made.

The simple fact of my having taken brief notes of what said employees knew and offered to testify to, is the only basis there was for the false statements contained in said alleged depositions for defense, which said deponents either purposely made, knowing them to be untrue, or through their ignorance were led to make, that I had taken such depositions at Tayoltita, or elsewhere, without the aid of a magistrate, and without witnesses, all of which is simply absurd—for no such papers have ever been offered by claimant in evidence before the Commission.

I did not pay, offer, or promise, nor did "Santiago" (James) Granger, "Mr. Dana," or any other person for me, or for said company, pay, offer, or promise any money or other thing to said Judge Guadalupe Soto, to any of said workmen, or to any other person, as a gratuity, reward, consideration, or inducement to become or be a witness, or to testify in this cause, nor did I ever offer or furnish a mule, nor the use of a mule to said Soto; and every statement to the contrary, in terms or substance, contained in the said alleged depositions of said Jimenez, Rodriguez, Calderon, and Soto, (and in any other, if any other contains such statement,) is wholly false.

All that they, or Judge Quiroz had to justify the making of such statement or report, is the following: Judge Soto required of me, as a condition of his permitting the workmen, then in his employ at claimant's said mines, whom I desired should testify, to go to San Dimas and give their testimony, that I pay their daily wages, which I think he said was one dollar and fifty cents per day each, and which he said would be necessary for their expenses; and consented, it seeming to me to be both reasonable and proper, San Dimas being about five leagues from Tayoltita, and the road from the one place to the other being over a rugged and precipitous mountain.

It is not true as stated over the name of said Guadalupe Soto, in one of his said depositions, that I, "foreseeing that his deposition would not be favorable, did not wish him to testify," but on the contrary, he was then residing on said premises with his numerous family, in full possession of said company's mines, and said hacienda San Nicolas, and was working the company's mines, and he claimed that he, being the local judge of that mineral district, had the best right to do so, and he unreservedly and proudly avowed it as his present and past opinion that the mines of Mexico ought to and did belong only to Mexicans, and that all Americans ought to be driven out of the country; he admitted when asked by me, that he, as local judge, had interfered with the company's working of their mines, and the conduct of their business, but claimed that he had rightfully done so by virtue of the orders of his superiors in authority; and he stated and admitted many other like facts which were very material to the company's case, and made me desirous that he give his deposition. He was bold, outspoken, and evidently proud of his hostility to Americans, and his acts towards said company, and I asked him if he would go over to San Dimas, and state before Judge Milan what he had just said to me in relation thereto, and he replied that he would; and he then repeated that the mines of Mexico belonged only to Mexicans, and he declared, in a boastful manner, that he was willing to proclaim his principles and purposes, on that subject, before any court, or before the whole world; but when he reached San Dimas, to which place he had come with me and with the workmen from Tayoltita to testify, he and said superior judge, Anastasio Milan, had a private conference in the rear part of said Milan's store, and said Soto then came and told me, through my said interpreter, Colonel Dana, that Judge Milan did not wish him to give his deposition in this case, and he had become satisfied that it was impolitic, if not impossible for him to do so there at San Dimas, and expressly requested me not to call him as a witness there, as he said he was going to Mazatlan in the course of two weeks, where he could make a deposition with less ill effect to himself, and promised to do so if I would not insist upon his testifying at San Dimas.

This request and promise, and the occurrences a few days after in the court before Judge Milan, which are narrated in the depositions of said Dana and Granger, are the only reasons why I did not then and there insist upon taking the deposition of Judge Soto, at San Dimas, in May, 1870; and any statement in his said alleged deposition, or any other deposition to the contrary, is wholly untrue.

Said Soto did not come to Mazatlan and make his deposition there, as promised, though I remained there after the time fixed by him, and as long as I could, and was expecting him from day to day, until it was necessary for me to leave Mazatlan for the United States, or otherwise the said facts and particulars, and the opinions, purposes, and conduct of Judge Soto would have been embraced in the deposition of Colonel Dana, who thought, as he said, that Soto would testify to the facts himself, which he preferred, and that I would eventually secure Soto's statement; and I have never seen said Dana since I left that Republic in 1870, and never had an opportunity since that time to retake his deposition; and on my return to Mexico, in 1872, I saw said Soto at San Vicente, where he resided, temporarily, (in May of that year,) two or three leagues from San Dimas, but he then denied some of his previous statements, and refused to give any deposition on behalf of said claimant; and I am satisfied that, after his said interview with said Judge Milan, he never intended, at any time, to give his deposition for claimant, and that the intent and design of his conduct at San Dimas, in May, 1870, was, under cover of seeming to be willing to testify, and to permit his workmen to do so, the more effectually to avoid it himself, and prevent the others from testifying.

It is not true, as stated in Aquilino Calderon's alleged deposition, that Bartolo Rodriguez and himself were the only workmen who came to testify; on the contrary, there were a number, at least five or six others who came with them, said Soto and myself, from Tayoltita to San Dimas, in May, 1870, to testify in this case, all of whom had, on the previous evening at said hacienda, in the conversation which I have mentioned, stated facts which it was very important for the interests of said company in this cause to have shown; but when they got to San Dimas, said Judge Milan also talked with them in his private room, in the rear of the store, and the result was that all of them, except Bartolo Rodriguez and Aquilino Calderon, left San Dimas during the same night, and, although I made diligent search for them for two days, I could not learn where they had gone, and said Rodriguez and Calderon were the only two of the workmen who were not frightened away before Judge Milan opened his court to take, or rather to defeat the taking of depositions, which, according to my recollection, was some two or three days thereafter;—and on my return to San Dimas and Tayoltita, in 1872, I made inquiry at both places to find the rest of said workmen, who went to San Dimas in 1870 to testify, but disappeared as I have stated, but I could not ascertain where any of them were; and it would have been a useless search if I had found them, for Mexicans were then afraid to testify before a Mexican court.

Judge Anastasio Milan, did, in effect, refuse to take the depositions of witnesses for claimant at San Dimas, in May, 1870, as stated in the depositions filed in this cause, which were given before Isaac Sisson, United States consul at Mazatlan, by James Granger, May 23d, 1870, and by Francis F. Dana, May 27th, 1870; and I reaffirm, and make a part of this deposition, all the facts contained in those depositions, which relate to the acts, proceedings, and occurrences by and before said Judge Milan in his court-room, in May, 1870, where Aquilino Calderon and Bartolo Rodriguez were there to give their evidence, all of which matters were interpreted to me by said Granger and Dana, or one of them, at the time—and I will add thereto, a few words, according to the best of my recollection—which, on that point, is not easily obliterated; that when said Calderon attempted to testify, there was a crowd of people outside, about the doors and windows of said court-room, hooting and yelling, and the court-room itself was full of the local authorities and people, whose menacing looks and gesticulations towards said Calderon, said Rodriguez, and myself, were unmistakable, and they were so demonstrative and violent, that even Colonel Dana, who had lived amongst said people so many years, told me I was in personal danger, and the said Judge Milan made no effort to suppress said insulting demonstrations, and by his silence, if not otherwise, encouraged them.

The witnesses, Calderon and Rodriguez, were very much frightened, evidently in part by the demonstrations of the spectators which I have mentioned, and partly by the acts of Judge Milan, and particularly the menacing way in which he cautioned them as to the evidence they were about to give. James Granger was present as interpreter of said proceedings between the court and myself, by the appointment of the court, and with my consent, but when the witness Calderon, through fright or other cause, swore that he had never worked for the Abra Company, and knew nothing about the company, said Granger, who had been clerk, or book-keeper for said company, and knew that such answer was untrue, stated the fact to the judge, and suggested that the witness could not have understood the question, and asked that it be repeated, said judge, with violent language, ordered said Granger and myself out of the court room—though he subsequently withdrew the order as to me. Before retiring from the court-room, said Granger, at my request, asked said judge if he would take and certify the depositions of the witnesses as required by the rules of the Commission, under the treaty, but the judge refused, as is stated more fully in Granger's said deposition. After said Granger withdrew from the court-room, the said Frances

F. Dana, my interpreter, having been a lieutenant colonel in the Mexican service, and formerly a personal friend of Judge Milan, came to my aid, and, at my request, he again asked the judge to repeat the question, so that the witness might surely understand it, and also again asked him if he would take the depositions in accordance with said rules of the Commission, and obey said treaty, and said judge again refused, all of which is, I believe, fully stated in said deposition of Francis F. Dana; and said Judge Milan then ordered said Dana and myself out of the court-room, but again revoked his order as to myself, and the said Dana immediately withdrew. It being evident that the witnesses could not, through fear, make a truthful statement, and that the judge was determined they should not, and he having refused to regard the treaty, or to take and certify the depositions as required by the rules of the Commission, and the only persons who could interpret the proceedings to me, having been driven by the judge out of court, I had no alternative but to abandon proceedings that were destitute of all semblance of justice or fairness, and all hope of having depositions taken in that district, and I left the court-room, and went direct to the hacienda of Ralph, or "Rafael" Martin, and thence to Mazatlan, and did not return to San Dimas until 1872. It is not true that said Calderon completed his deposition before said judge, or that said Rodriguez testified at all, unless the former was don', and the latter testified after I had abandoned said proceedings, and left;—and if their depositions were taken, I never had, saw, or knew what became of either of them;—and if they severally deposed to what said alleged depositions contain, as reported by said Quiroz, now filed by defense,—then they deposed, in all essential particulars, directly opposite to what they had voluntarily stated to be the facts, in the statements made by them at said hacienda San Nicolas, only two or three days before, to which

239 I have already alluded, and which facts I am satisfied they would have deposed to, had they not been tampered with and frightened by the authorities, after reaching San Dimas;—and each and every statement in the alleged depositions heretofore mentioned, purporting to have been made by said Rodriguez, Calderon, Soto and Gil Ruiz, or in any other deposition, contrary to what I have here stated, relative to the taking of depositions by and before said Judge Milan, is wholly untrue. It is not true, as will be hereinafter shown, that the deposition of Matias Avalos, filed on behalf of the claimant in this cause, was "taken extra-judicially," as he is reported by Judge Quiroz to have said, in his alleged deposition, in July, 1872, filed on behalf of the defence; nor is it true that his said deposition, or the depositions of Juan Francisco Gambos, José Maria Loiza, James Granger, or of any other person, filed on behalf of claimant, was "extra-judicial," as is stated in the directions to the judge of first instance of the district of San Dimas, dated Durango, July 8th, 1872, by José M. Hernandez, the Mexican district attorney, and filed as a part of the defensive evidence in this cause.

Said Granger and Avalos resided in the town and district of San Dimas. The demonstrations in and around Judge Milan's court-room, and by said judge himself, which I have related, satisfied said Granger that it would be dangerous for him to attempt the giving of his deposition there, and Judge Milan had, in effect, refused to take depositions for claimant, as I have already stated, and, of necessity, witnesses had to give their depositions elsewhere, or not at all; and said Granger thereupon told me that his business would call him to Mazatlan, a few days thereafter, where he could give his deposition before the United States consul, in safety, which he subsequently did do, and the same is now on file in this case.

As for said Avalos, his deposition on behalf of the claimant, would not have been given at San Dimas, had Judge Milan been willing to take it, for the reason, that I did not know while I was there, nor until after I had returned to Mazatlan from San Dimas, nor until Avalos himself had come to Mazatlan, (which he did as an escort for some one,) that he had ever been in said company's employ, or that he knew any material fact relating to the claimant's case. His deposition was therefore given at Mazatlan, for the additional reason that he happened to be there temporarily, where I was when it first came to my knowledge that he had worked for claimant, and knew facts pertinent to this case, and his deposition, given in May, was, by the request of Avalos, himself, and with the consent of the United States consul before whom it was taken, written down by ex-Governor Carlos F. Galan, as interpreter and translator for said Avalos, and the same was taken lawfully, openly and fairly, in the office of the United States consulate at the port of Mazatlan, and his statements were wholly given in answer to questions propounded by the consul, and the assertions which are made to appear in his said alleged deposition of July, 1872, filed on the part of the defence in this case, that he made an "extra judicial statement at the National Hotel" in Mazatlan, and was there questioned "by an American called General," and "by William N. Camacho," and that "James Granger agreed to pay him twelve dollars on the General's account," but did not, and that "said General gave it to him last May," are, and each of said statements is wholly untrue, and without the slightest foundation in fact; and the whole of said alleged deposition has been explicitly denied, condemned, and repudiated by said Avalos himself, in a subsequent depo-

240 sition given by him in this case, September 10, 1872, and now on file before the Commission; and as to the giving of said last mentioned deposition, I was at Mazatlan, in September, 1872, and while there, the said Matias Avalos came to Mazatlan in the employ of the Durango Mining Company of San Dimas, with Charles B. Dahlgren, the superintendent of said company, in attendance upon his sick wife and child, then en route to the United States. I had no previous knowledge or intimation that either Captain Dahlgren or said Avalos was coming to Mazatlan, but while they were there, I accidentally ascertained from a Mexican companion of said Avalos, who also came from San Dimas in the employ of said Durango Company, that said Matias Avalos, and other Mexicans had been compelled to go before said Judge Quiroz, the previous July, and there to make, or witness the making of said alleged depositions by said Quiroz, de la O, for the defence in this case, one of which was subsequently exposed and repudiated by the witness himself as aforesaid; and these facts came to light at Mazatlan, and Avalos was requested by the consul to make his affidavit to all the facts in the case, and by reference to his deposition it will be seen by the certificate of the consul, and the deposition of the interpreter, that it was taken properly and lawfully by the consul; that the interpreter who transcribed and witnessed said deposition for the consul on that occasion, Hernando Diaz Peña, who was then, and is yet a teacher of languages, and principal of a college at said port of Mazatlan, was chosen by said witness, Avalos, as he had chosen ex-Governor Carlos F. Galan, in May, 1870, for the same purpose, in transcribing his first deposition in behalf of claimant, all of which was done in the presence of, and under the direction of said United States consul, in every instance without interference, or any attempt at interference by me, or by any one else, and I here state positively that I never saw nor heard of any such person as "William N. Camacho," and it is meanly false that said imaginary person "Camacho," or that any real person, "at the National Hotel," at the consulate, or elsewhere, ever dictated or interfered, in any way, with the terms, substance, or writing down of either of the two depositions so given before the said consul, by the witness Matias Avalos, or by any other witness for claimant in this case. No person acquainted with the high character of Isaac Sisson, the United States consul at Mazatlan, and with his prudent and precise manner of doing business, and especially in taking and sealing up testimony, would ever attempt to have depositions improperly or unlawfully taken before him, even though the agent or attorney of the party in interest were unprincipled enough to desire it. Said consul was expressly ordered to take said depositions, by the State Department of the United States, which order is dated at Washington, December 13th, 1869, and transmitted through Minister Nelson, at Mexico, whose instructions to said consul, Isaac Sisson, Esq., were shown to me by him, in said consulate at Mazatlan, in March or April, 1870, the material part of which is as follows:

"LEGATION OF THE UNITED STATES,

"Mexico, January 6th, 1870.

"SIR: You are hereby instructed to take and verify all proofs in support of claims against Mexico, to be presented to the Joint Commission at Washington," &c., &c.

I have copies of said orders and instructions, at length, which I have received from the files of the State Department, and, it appears, the Secretary of State was
241 moved to order said instructions, by complaints from United States consuls in Mexico, of the difficulties in taking such testimony before Mexican authorities, which are also on file at said Department.

Each and every deposition taken in Mexico on behalf of the Abra Company, claimant in this case, was taken honorably and lawfully, and wholly by the consul or other magistrate certifying to the same, with the interpreter selected by the witness himself, in every instance; while, on the contrary, every Mexican official in Sinaloa and Durango, to whom my business made it necessary for me to apply for certificates, copies of title papers, and to take depositions in this case, with the honorable exception of Pedro J. Barraza, judge of the supreme tribunal at the capital of Durango, who discharged his duty honorably and promptly—either refused my application, outright, or granted it only after expensive and vexatious delays, intrigues, and obstructions, such as were well calculated to defeat the object in view, as I was thereby prevented from securing the depositions of many of claimants' former employees in the mines, and elsewhere, whose testimony was material in support of this claim.

In May, 1872, I applied to said Cipriano Quiroz, judge of 1st instance, at San Dimas, and to Arcadia Laveaga, then the official prefect, or "gefe" of that district, to certify officially to the correctness of their own unofficial signatures, made by them as witnesses to certain title papers of the claimant in this case, and to the signatures of other officials, the correctness of which signatures they admitted they knew. My said application was written out in Spanish, to which each of said officials replied, verbally, that he would sign no papers, nor take official action of any kind, nor attach his name officially to anything, without instructions from his Government, and each claimed to have special instructions not to sign anything officially, if applied to, with-

out permission from the supreme authorities at Durango, and that his orders from the Governor were, that he should not grant any certificate, nor any petition whatever, without previously sending it to the Governor for approval, and therefore he could not accede to my request. This prevented me from making any petition to said authorities at San Dimas, to take depositions before either of them, on behalf of claimant, as each of them had informed me, in advance, that no petition would be entertained without special orders from the Governor, who was at Durango, nearly two hundred miles distant, over the Sierra Madre mountains, traversable only by terrible mule paths; all of which facts effectually prevented my taking testimony in that district, as they were the only authorities there, before whom I could have taken testimony, and each of said officials well knew that if said instructions could be obtained at all, it would require from one to two months to return them there.

The titles were certified at Durango, after an expensive and unnecessary delay there of a number of weeks, during which time bills for upwards of \$200 were made out against me, by a Mexican agent there, for searches, and for procuring the signatures of his friends, (as he called the Governor and other officials at said capital,) to the original duplicate denouncements and deeds to said mines and haciendas of the Abra Company.

While at San Dimas, in May, 1872, I ascertained that said James Granger, one of the witnesses for claimant, had been summoned by said Judge Cipriano Quiroz, a number of times, to appear before him and give his testimony for defence, and that

he had been compelled to sign two depositions before said Quiroz, on the part 242 of the defence in this case; said Granger then and there called my attention to the fact that from the manner of putting together the depositions, by officials there, the sheets of paper containing the statements of a witness, could be easily displaced, and others introduced containing such statements, or interpolations as they chose to report, except upon the last sheet, upon which is written the signature of the witness; and in calling my attention to this loose manner of putting depositions together, and forwarding them from San Dimas, he protested that if said depositions, over his signature, as reported by Judge Quiroz, contained anything contrary to, or inconsistent with his declarations in the depositions he had given in support of this claim, before Consul Sisson, in May, 1870, that it was a false report of his testimony by said Mexican judge. I then asked him to make a deposition to that effect, which he was willing to do, and would have so testified, but he could not leave his business and go to Mazatlan for that purpose, and he could make no deposition of the facts before said Judge Quiroz, and the United States consul there, Charles B. Dahlgren, could not act officially, as he had not yet received his *accreditation* from the Mexican Government, and there was no authority in San Dimas before whom he could testify. I subsequently ascertained, from said Consul Dahlgren, at Mazatlan, in September of the same year, 1872, that his *accreditation* was not received until some time after I had left the district of San Dimas—not to return there again—and said Dahlgren, at that time, complained of the neglect of the Supreme Government at Mexico, in withholding his *accreditation* so long, which he thought was done purposely, to prevent the taking of testimony before him in that mining district, in support of the said American claims.

It is not true, as stated in said report of Cipriano Quiroz, in said alleged proofs of defence, that in any part of the month of July, 1872, there was "no mode of conveyance to San Ygnacio at the time, either by mail or through private sources, to forward the requisitions decreed by the act of the 15th instant," July, 1872, which "decree" was an order from José Ma. Hernandez, of Durango, then the Mexican district attorney, to said Cipriano Quiroz, judge of first instance at San Dimas, to take, for defence, the depositions of said Francisco Gamboa and José Ma. Loaiza, of said district of San Ygnacio, Sinaloa, and of said Judge Anastasio Milan, of San Dimas.

There was nothing to prevent the Mexican authorities from taking said depositions, if they had chosen to do so. I was in said district, and in various parts of said States of Durango and Sinaloa, at the very time said Quiroz was taking depositions in this case, and I knew all that took place there, of public notoriety and importance, from about the twentieth of April, 1872, the time of my arrival at Mazatlan, up to about the middle of January, 1873, the time of my departure from the same place, and from that Republic.

The rebels, or "pronunciados," after having possession of Mazatlan, and a part of Sinaloa, for a few weeks, were driven out, and the legitimate authorities under President Juárez, re-established in full control of that district and State, and of the State of Durango, about the middle of May, 1872, by the army of General Rocha, and I know that the roads were open, and the mails not obstructed, but passing as regularly as usual in that country, between said points, the towns of San Dimas and San Ygnacio, from the middle of May, up to about the 1st of September, 1872, when the rebels again took and held possession of some parts of said States, for a few weeks only, and then finally surrendered to the legitimate authorities under President 243 Lerdo de Tejada, which last named authorities have ever since that time held

possession of the same. In the month of May, 1872, I saw said Gamboa, and Loaiza, at their respective residences in the district of San Ygnacio, in which district they resided permanently, with their families; and I also saw, in the same month, said ex-judge, Anastasio Milan, at the town of San Ygnacio, in said district, in which town he was then visiting, but he still resided with his family, in said town of San Dimas, in the adjoining district of that name; said towns of San Ygnacio and San Dimas are about sixty miles apart.

At said town of San Ygnacio, I ascertained that Judge Milan had been compelled to give up said office, as judge of the 1st instance at San Dimas, and that his place as judge was then occupied by Cipriano Quiroz, and that, if it were possible, he hated Americans worse than said Milan ever did. One of my interpreters then and there asked said Milan, in my presence, if he had given his testimony in this case, and if depositions had been taken on the part of the defence, at San Dimas, since I left there, in 1870, and said Milan replied that there had been such depositions taken there, by Gil Ruiz, who acted as judge in taking them, and also by Judge Cipriano Quiroz, who at that time was preparing to take more depositions, under the order of José Ma. Hernandez, the Federal district attorney; and said Milan then remarked, that Judge Quiroz had spoken with him on the subject of taking his deposition, only a few days before that time, but that they had concluded that his testimony was not necessary, and that he, Milan, had come down to San Ygnacio partly on business, but mainly because he was in bad health, and thought the climate in the valley of San Ygnacio better for him than the mountain air of San Dimas.

The mails then passed but once a week between said towns of San Ygnacio and San Dimas, and at said Judge Milan's request, one of my interpreters bore from him a verbal message to his family at San Dimas, relative to the improved condition of his health, and his intended speedy return to his home; and he delivered said message to said Milan's wife and daughter, at said Milan's store, in the said town of San Dimas, which they were keeping in his absence, and from whom I purchased all of my supplies for my journey to the capital of Durango, which took place in the latter part of that month, May, 1872; and therefore it can not be true that said Milan's whereabouts and residence were not known to said Judge Quiroz; they were near neighbors, in the same town of San Dimas, and the said authorities had every facility for securing the deposition of said Ex-Judge Milan, if they had wanted it. The same applies to José Ma. Loaiza, and Francisco Gamboa; as I have already stated, they resided permanently in said district of San Ygnacio, and I saw them there, in the month of May, 1872; and, to my knowledge, depositions in cases of Americans against Mexico, were taken at both of said towns of San Ygnacio and San Dimas, on the part of said Mexican Government, between the middle of May and the 1st of September, 1872, during all of which time that district in Sinaloa, and San Dimas, Durango, and the roads between them, were in possession of the legitimate authorities; and there was nothing to prevent the taking, on the part of Mexico, of the depositions of any of said witnesses, by the authorities of San Dimas, Durango, or San Ygnacio, Sinaloa unless it was the disinclination of said authorities to have them.

I ascertained from citizens of San Ygnacio, and from said José Maria Loaiza, in 244 December, 1872, that he had not been absent from said district of San Ygnacio, during the year 1871, nor up to December 1872, except for a day or two at a time, in coming to the port of Mazatlan on business; that he was well known personally to the judge of 1st instance, at said town of San Ygnacio, and was at his home in said town of San Ygnacio in 1871, and 1872, while said authorities were taking depositions against the claimant in this case, at San Dimas, and against the American claimants in other cases at said town of San Ygnacio, and that he had never been notified by said judge, to appear before him and give testimony in this case for defense. I know it to be true, and confirm the statement of said Loaiza, so far as it relates to the taking of testimony at San Dimas, in this case, and at San Ygnacio in other cases. I satisfied myself by inquiry at San Ygnacio, and Mazatlan, where he was well known, that said Loaiza was a conscientious and truthful man, whose statement could not be influenced or controlled by any official threats of punishment—such as are referred to by said Matias Avalos, in his deposition on behalf of claimant, given in September, 1872, and by ex-governor Carlos F. Galan, in the case of James Tobin vs. Mexico, now on file before the Commission, in which one of the witnesses in this case, and his brother, were subjected to said abuses.

It is equally false that said Mexican district attorney, and Judge Quiroz, did not know the residence of Marcos Mora, and could not take his deposition on the part of defence in this case, as will be seen by the following facts: During the entire months of June and July, 1872, I was at the capital of Durango, for the purpose of securing certificates of the proper authorities, to claimant's perfected titles to said mines and haciendas, and also to collect the testimony in this case; and during July, 1872, I saw said Marcos Mora, frequently, in company with said district attorney, Hernandez, at the Executive Department, or State-house in Durango. Said Marcos Mora was a noted character, and it was well known to all the authorities there, that he was a native

of said capital, and that he was residing there with his family, on the 8th day of July, 1872, at the very time said order was made by said District Attorney, José M. Hernandez, to said Quiroz, to take the deposition of said Marcos Mora in this case; and in the latter part of the same month, viz., on or about the 23d of May, 1872, said Mora testified on the part of claimant in this case, before the Honorable Pedro J. Barraza, judge of the Supreme Tribunal at said capital of Durango, but not until he had been twice legally cited to appear before said judge for that purpose, which citation, or order of said court, the said Marcos Mora refused to obey, and he was finally arrested upon the order of said court, and brought before said judge at Durango, by means of the police, to answer a charge of contempt of court, and to answer interrogatories filed by me before said court, some days previously, touching the merits of this claim, which he refused to answer, until compelled to do so, as aforesaid.

It is not true, as alleged by the defence, that said Gamboa and Loaiza were taken by me, or by any one for me, or for claimant, from San Dimas to Mazatlan to testify in this case. They resided in San Ygnacio, Sinaloa, and not in San Dimas, Durango, and I never saw either of them in San Dimas, nor at any place in the state of Durango; nor is it true that their depositions could have been taken before Mexican authorities in their own district.

I state positively, that on my way from Mazatlan to San Dimas, in April, 1870, I called upon the judge of first instance, at San Ygnacio, in said district, in which
245 said witnesses resided, and through my interpreter, Colonel Frances F. Dana, I made application to said judge, in the Spanish language, to take the depositions of said Gamboa and Loaiza, in this case, which application said judge refused, giving as his reason for so doing, that he had to leave town at once, on business, and could not say when he would return there, and for this reason, on my return from San Dimas, a few days thereafter, said Gamboa and Loaiza consented to go to Mazatlan and there give their depositions in this case, which they did do, in the month of May 1870, before said United States consul, Isaac Sisson, Esq. Both of said witnesses selected their own interpreter, the said Carlos F. Galan, and both of them chose to go before the consul to testify, instead of the Mexican judge of first instance there, who was unfriendly to Americans, and before whom it would have been difficult, if not impossible, to make a fair statement of the facts supporting an American claim. The sworn statement of said interpreter, Galan, and the certificates of said consul, annexed to the depositions of said Gamboa, and said Loaiza, show how carefully said depositions were taken.

The "Candelaria" and "Bolas" mines, mentioned in the 4th question and answers thereto, in the respective depositions filed as defensive evidence in this case, alleged to have been given at San Dimas, in January and February, 1871, before Gil Ruiz, by Patricio Camacho, Bartolo Rodriguez, Ramon Aguirre, Aquilino Calderon, Refugio Fonseca, and Ygnacio Manjarrez, are the mines owned and worked by the "Durango Mining Company," of which company the superintendent was Charles B. Dahlgren, whose deposition, made September 18, 1872, before Isaac Sisson, United States consul at Mazatlan, is on file as a part of the claimant's evidence in this cause, and which deposition gives the reasons why said foreigners were permitted to work the mines referred to. The alleged statements in the last-mentioned deposition of Bartolo Rodriguez, that the old hacienda, for beneficiating purposes, was destroyed by said company, and the statement of Ramon Aguirre, in said deposition, that it was taken down by said company, and the alleged statement to that effect by any other witness, is wholly untrue, for said hacienda was still standing, by the side of the new one, erected by said company, at the time I was at Tayoltita, in 1870, and also in 1872, although in 1872 a part of the roof of said building, being part of said hacienda San Nicolas, was off, and the same had been removed, as I ascertained at San Dimas, in 1872, to enable Francisco Torres, a Mexican, and James Granger, an Englishman, (who, I ascertained, was at that time, a son-in-law of said Judge Soto,) to denounce the same under the Mexican laws, and for which purpose, and to the end that they might get legal possession, said Soto, who was in possession when I was there, in 1870, had moved out with his family to San Vicente, temporarily, and sold out his interest in said property, to said Torrez, which was confirmed by the fact, that on visiting claimant's said abandoned property, at Tayoltita, in May, 1872, I found said Torrez, with his family, living in said hacienda San Nicolas, in full possession of said property, and working the mines of the same.

It is not true, as stated in one of said alleged depositions for defence, that in 1871, when said depositions were made, the six or seven thousand cargass of ores which the company had taken out and abandoned, still remained, undisturbed, upon the patios of the claimant's said hacienda, for when I visited said hacienda and patios, in 1870, the amount of ores then remaining there, could not have exceeded twelve hun-
246 dred cargass, or one hundred and seventy-five to two hundred tons of the same, which were then torn down and scattered about the Patios, giving unmistakable evidence of having been culled out, and the refuse pieces left by those who had taken away the best of them, which I ascertained to be the fact, from the Mexican

employees who went with me in May, 1870, from Tayoltita to San Dimas to testify in this case, and were frightened away and prevented from doing so by said authorities, as already stated; and even a large part of said refuse ores, I should think one-half, had disappeared from said Patios, exhibiting evidence of a further culling out of the same, when I again visited said hacienda in 1872; and the mining tools, the retort, some of the wheels and iron work of the stamp mill, and other valuable parts of the machinery, in and for the working of said stamp mill of claimant, had disappeared from said premises, so as to render utterly useless what was left of the same.

As copies of said alleged depositions are filed by defence, and are destitute of original signatures, *rubrics* of witnesses or magistrates, and without any certification as to the character or credibility of any of said alleged witnesses, it was not my intention to make any statement in the case, neither as regards the disingenuous personal allusions to myself, by said Mexican authorities, nor the gross misrepresentations, and inventions, contained in said alleged depositions; and I have reluctantly consented to give my sworn statement of the facts, at the request of claimant's counsel, and solely to correct said misrepresentations, and any misapprehensions that might arise from my silence.

I have no interest in this case except that which arises from the relation of attorney and client.

A. W. ADAMS.

Subscribed and sworn to before me, this second day of November, 1874.

EDWARD C. INGERSOLL,

United States Commissioner for the District of Columbia.

UNITED STATES OF AMERICA. DISTRICT OF COLUMBIA,

City and County of Washington, ss :

I, Edward C. Ingersoll, United States commissioner, in and for said city and county, do hereby certify, that Alonzo W. Adams, whose deposition is herein above written, attended before me, on the second day of November, A. D. 1874, at my office in said city, and was publicly and duly sworn by me, according to law, to tell the truth, the whole truth, and nothing but the truth, in the above-entitled matter, and thereupon he deposed and testified as hereinbefore set forth, and signed his said deposition in my presence. I further certify that I am competent to take depositions, by the laws of said United States of America; that I have no interest in the claim to which the testimony of said witness relates, and that I am not the agent or attorney of said Abra Silver Mining Company, the claimant in said matter, nor of any person having such interest. I do further certify that said deposition was reduced to writing by Howard H. Morton, who acted as my clerk for that purpose, and that he thereupon testified before me that he has no interest, and is not the agent or attorney of any person having an interest in said claim. And I do further certify that I know well the said Alonzo W. Adams, as a citizen of New York, a man of responsibility, and of good character for truth and veracity; and I hereby certify to the credibility of said Alonzo W. Adams, and that his deposition is entitled to full faith and credit.

EDWARD C. INGERSOLL,

United States Commissioner for the District of Columbia.

[SEAL.—United States Commissioner, District of Columbia.]

No. 489.]

REBUTTING EVIDENCE.

BEFORE THE HONORABLE, THE AMERICAN AND MEXICAN CLAIMS COMMISSION.

In the matter of the claim of La Abra Silver Mining Company versus The Republic of Mexico.

Copy Deposition of Carlos F. Galan taken on behalf of the claimant in the case of James Tobin vs. The Republic of Mexico.

La Abra Company being expressly referred to by the deponent as coming under the hostile acts of the Mexican authorities, and said deposition containing evidence affecting the above entitled case, permission is respectfully requested, on behalf of said Company, that this copy of Deposition be filed and used in this case with the like effect as if said deposition had been taken therein. The said Carlos F. Galan having been examined in the case of James Tobin v. The Republic of Mexico in rebuttal of the defensive evidence filed by Mexico.

REBUTTING TESTIMONY.

In the matter of the claim of James Tobin versus The Republic of Mexico before the Honorable the American and Mexican Claims Commission.

In session at Washington, D. C., under the Treaty of July 4th, 1868.

Deposition of Carlos F. Galan on behalf of claimant.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

At 10 o'clock a. m., this third day of January, A. D., 1874, before me, Ramon de Zaldo, a notary public, duly commissioned as such, in and for the city and county of San Francisco, personally appeared Carlos F. Galan, well known to me as a respectable and responsible man, fulfilling all the legal conditions of a competent witness, and being introduced on behalf of the above named claimant, and having been first duly sworn by me, deposes and answers to the interrogatories as follows, to wit:

Question 1. What is your name, age, nativity, residence, and occupation? State also if married or single?

Answer. My name is Carlos F. Galan; I was born in Spain; I am forty-three years of age; I reside at the southeast corner of Stockton and Francisco streets, in this city, with my family, consisting of my wife and eight children; I am an attorney and counsellor at law, and my office is room No. 12, Montgomery Block, San Francisco.

Question 2. Have you ever resided in Mexico, and if so, where and when, and for how long a time?

248 Answer. I have resided in Mexico many years, from the time when I was but a boy up to May or June, 1872, when I left for this place, except the time I have resided in this State. I came to Mexico when I was fourteen years old, and have resided in different States, Mexico, Lower California, and Sinaloa especially, where I have been most of the time.

Question 3. What has been your occupation while in Mexico, in the different States where you say you have resided?

Answer. Soon after my arrival in Mexico, I entered the military college of Chapultepec, and became a cadet therein, and I was promoted to a lieutenancy in the Mexican army, and fought throughout the war with the United States, in 1846, '7 and 8. At the close of the war I studied law, was admitted to the bar, and practiced my profession in Sinaloa and Lower California. I was also interpreter and translator of the English, French, Spanish and Italian languages. I founded the first English and Spanish newspaper published in Lower California, called "La Baja California," which still exists there, though not under my control, which I gave up when I became governor of that territory. I published, also, at Mazatlan, the first large "weekly" ever published in Sinaloa, called the "Occidental," and also another newspaper called "La Voz del Pueblo," at Mazatlan, from 1869 to 1872, where, in the meantime I was also engaged in the practice of the law, and as translator of languages, as stated.

Question 4. Have you held any other office or offices in Mexico than that of lieutenant in the federal army, and if so, state what office or offices, and where you held the same and when?

Answer. I have been chief justice of the Territory of Lower California; a member of its congress or assembly; its governor or political chief; judge of the first instance, and other offices, from 1863 to 1868. I was elected there by the people of the Territory, to the territorial assembly, in September, 1867, and became its speaker soon after, and was ex-officio governor of the Territory till May, 1868, and soon thereafter I moved with my family to Mazatlan, Sinaloa, where I resided until the summer of 1872, as aforesaid.

Question 5. Do you know the claimant, and any facts connected with his claim? If so, state when and how long you have known him, and what facts if any, regarding his claim, and when, where, and how they became known to you?

Answer. I have seen the claimant several times. I have spoken with him here in this city; have but little acquaintance with him, but know, by reputation, his business in Mexico. I have learned from various sources, while I resided in Mazatlan, Sinaloa, and published a paper there, mainly by men employed by him, and other miners, Mexican and foreign, of Mr. Tobin's working some copper mines, and of his attempts to export Brazil-wood for the San Francisco market, which he contracted to have out in the Ignacio district in Sinaloa, about 1864. I have ascertained from some of the Mexicans who made contracts with him for the same, that is, the amount they were to cut, and the time during which it was to be cut, and the amount they had

already cut, and the causes which brought about the ruin of the claimant's enterprise, and its abandonment.

Question 6. How came you to know the facts you refer to? State all you know in relation thereto, giving names, dates and circumstances, if recollected.

249 Answer. In my profession, as a newspaper man, it was my business to inquire about all matters of public interest, and ascertain the news; and about 1870 or 1871, there being some excitement about claims presented to the joint commission I inquired and ascertained a great deal concerning most, if not all the claims presented by people who had lived or were living in Sinaloa and Durango. As a lawyer also, I was consulted in many cases, and examined witnesses and was attorney in several claims, all but one, (that of George Briggs,) being against the United States. In this present case, I translated and wrote down the depositions of some of the witnesses in support of this claim, at the American consulate in Mazatlan, in May, 1870. The witnesses referred to were Trinidad Gamboa, Juan Francisco Gamboa, and Jose Maria Loaiza, who resided, the first at Cabazan, the second at Limon, and the third at San Ignacio, all in the district of San Ignacio, State of Sinaloa.

Question 7. What was the excitement about, that you speak of, and how was it brought to your notice?

Answer. The excitement was, as I have stated, about the claims against Mexico, and as my relations with some of the officials of the state were intimate, and I was brought in contact with them officially, and otherwise, I heard a good deal about the claims, and saw the effect upon the authorities there, and the action of said authorities in relation to the claims, and claimants, and what was said about this case among others.

Question 8. Who were the officials you mention; what was their rank, and what was the feeling, and how was it shown by said authorities?

Answer. They were, General Domingo Rubi, who was then military and civil governor of the state of Sinaloa, and a general in the army of the Republic; Jose D. Martinez, secretary of state; J. Aldrete, judge of the First Instance at Mazatlan; L. Gaona, district attorney for the federal courts in Sinaloa, and others. Those named being the authorities I noticed more particularly. I have had some testimony which had been taken before Judge Aldrete, destroyed by him, because it was strong for the claimant, one George Briggs, an American, against Mexico. About the time the depositions of the Gamboa brothers and Loaiza were taken in this case before the consul of the United States, as I have stated, some depositions had been taken in the case of Briggs *vs.* Mexico, which the district attorney, Gaona, got hold of in the office of the judge, Aldrete, and he read and took notes therefrom, and kept said depositions till the time had expired to present testimony under the printed rules, before the joint commission; when I finally obtained the depositions, I sent them to the governor's office to have the judge's signature certified to by Governor Rubi, which he refused. I went to his office to inquire about it, and was referred by the governor to Martinez, the secretary of state, who said he would read the depositions first; he did so, and then, instead of a certificate, he wrote a sort of impeachment of the witnesses who had testified, for the governor to sign, and on being remonstrated with for this unusual and unlawful conduct, he said he would like to have such men led out and shot for testifying against Mexico, in support of the claims of these "Gringos;" he referred to the claims of all Americans against Mexico, this and others in that State, and in that military jurisdiction, embracing also the States of Durango, Jalisco, and others on the Pacific slope.

Question 9. In your former answer, you mention Domingo Rubi, the governor of Sinaloa—what, if anything, was done by him affecting this case of James Tobin?

250 Answer. The next morning after the depositions of the brothers, Trinidad and Juan Francisco Gamboa, and Jose Maria Loaiza, were taken before the American consul, in May, 1870, they came to my office, and Trinidad Gamboa told me in presence of his brother, that Governor Rubi had had a conversation with him that day about his testimony in this case, and threatened to make him and his said brother serve as a private soldier in the army, and pay to the government all damages awarded these claimants by the commission, if they did not retract what they had said for these claimants, or go before the judge at San Ignacio, and testify on the other side, and against these claims, and he said he wanted their depositions returned, as they did not wish to go before the Mexican judge and testify to anything but the truth.

Some two or three months thereafter, in one of my interviews with Governor Rubi, he moved the subject of claims, speaking of one prosecuted by a Mr. Green, and by this claimant, and others, and he became very abusive to them and to American claimants in general, and also to Mexicans who were witnesses in behalf of American claimants, and from his remarks I came to the conclusion that Trinidad Gamboa had said the truth when repeating to me the threats made against him and his brother, by Governor Rubi.

Question 10. What were the words used by Governor Rubi, as near as you can recollect them, from which you drew such conclusions?

Answer. I could not undertake to give his exact language, neither could I say that all was spoken at the same interview. We met often; we were friendly—intimately so, I may say, and we had many conversations on the subject of American claims. I always tried to convince him that he was doing wrong in interfering with witnesses and frightening them, but he insisted that the treaty itself, he said, was nothing but a pretext to get a slice of Mexico, and he said he would, by fair or foul means, defeat all such claims. He advised me to have nothing to do with them as counsel, attorney, or interpreter.

Question 11. Were you ever employed by Governor Rubi, or by any other Mexican official, to defeat said claims?

Answer. I have not been so employed, and if I had I most certainly should not be here testifying about it. I wish to explain, that General Rubi is very ignorant of international law and of treaty obligations, and he is stubborn and very much prejudiced against Americans, and he said the accounts made by some of the American claimants, for consequential damages, were exaggerated, (and I fully concurred with him, as regards consequential, or indirect damages,) and that he, Governor Rubi, was enraged thereat, and in his ignorance and prejudice against all Americans, he made no distinction of claims or persons, and he said as they had asked too much, he would beat all their claims, and they should have nothing if he could prevent it in any way, or by any means. I remember he said he would have the witnesses who had testified for the claimants in this and the other cases I have named, examined anew, and he knew they would say differently from what they had stated for claimants, or he would know the reason why. "Severe military service, and discipline," as he said, "would make them change their ideas, somewhat, as to what good loyal Mexicans should do in such cases."

Question 12. You stated, in answer to a former question, that Trinidad Gamboa had requested you to have his deposition in this matter, and that of his brother returned; were they returned, or, if not, why, and what became of them?

Answer. They were not returned, as I stated. Trinidad Gamboa, his brother, and Loaiza, came to my office, and after telling me the Governor's threats, requested me to send for Mr. Adams, the attorney for this claimant and other claimants on whose behalf they had testified, and to induce him to return the depositions, in view of the Governor's threats, and thus to save them from the dangers threatened.

Question 13. State, if you know, why were the depositions you refer to, of the brothers Gamboa and Loaiza, in this and the other cases named, taken before the American Consul, and not before one of their own judges? Say, also, if you know, whether the said Gamboa brothers were or not forced, as threatened by Governor Rubi, to go before a Mexican judge and sign depositions against this claim, and others you have named, and if yea, by whom, and how you know the facts?

Answer. It was at the witnesses own suggestion that they testified before the consul; all of these witnesses had been here in this State, California, five years, in early times, and knew English enough to make themselves understood, and the American consul at Mazatlan understood Spanish, and all of the said witnesses and the consul had, or said they had, entire confidence in my fairness and ability to take down the witnesses statements. They did not dare to go before a Mexican judge to give evidence in favor of an American claimant, they said, and I did not blame them for it, for they were aware, as I was, of the prejudice existing against such witnesses by the authorities. Jose Maria Loaiza is a claimant against the United States for \$300,000, and I am his counsel, but believing it a duty, and wishing, as he did, to show his fairness and impartiality, he was willing to testify to the facts in this and the other cases I have named, yet he refused, point blank, to go before a Mexican judge to testify. The said depositions in support of this and the other cases named, taken before Consul Sisson in May, 1870, were sent to the Joint Commission at Washington, by said attorney, or by the consul, in my own handwriting. They were not returned to the Gamboa brothers, as requested, although the attorney offered to return them, for the reason that when I sent for the attorney to come to my office, he came and met the Gamboa brothers; the next day after their testimony was taken before the Consul, he told said witnesses he would return them the papers—their depositions—if there was one improper, or untruthful statement in them; but these witnesses insisted that every word contained in their said depositions was true. The said attorney for claimant then offered to have their depositions modified or amended before the Consul, if they, the Gamboa brothers, or Loaiza, desired it, before sending them to Washington, but they all declined this, and said they had no changes or modifications to suggest, that their depositions were truthful, and that the attorney could send them before the Commission as their evidence in those cases; and many other things were said by them, at the same time, in this connection, to about the same effect. In reference to the question, whether said witnesses, the Gamboa brothers

were compelled, as threatened by Governor Rubi, to sign depositions against this claim, and the others named by me, I have to say, that some time in the summer of 1871, I met Trinidad Gamboa, and he related to me how they had been compelled to go before the judge of the first instance at San Ignacio, and there sign a deposition, written and prepared for each of them by said judge, against this claim of James Tobin, and that of Daniel Green, and others, and that they signed to save themselves from abuse, that they knew by Governor Rubi's threats, would have been inflicted upon them as a punishment for having testified in favor of this claimant and others; that the prejudice of the local authorities of the District of San Ignacio, against all American claims and the claimants themselves, was such, he said, that he believed him and his brother would have been in imminent danger if they had refused to sign the said depositions. At the time they made the depositions in favor of this claimant, and others, before the American Consul at Mazatlan, I went, at the request of these three witnesses, before the said United States Consul, and I wrote down the testimony of all three of them, in this case of James Tobin, and of Daniel Green, and also the testimony of Juan Francisco Gamboa and Jose Maria Loaiza, in the case of La Abra Silver Mining Company *vs.* Mexico, I think about the same time, and the depositions of these witnesses were corrected by the Consul in a number of places, and copied by me and read over by the witnesses, and approved, before signing by them, and we did not finish them until late at night, long after midnight on the last day they were there—and I well recollect, in this connection, the impatience and annoyance exhibited by the Consul, Mr. Isaac Sisson, on that occasion, because these witnesses refused to return there the next day to complete their depositions, but they insisted upon going on and finishing their testimony that night, which was done; but whether they were all written down that day, or whether we devoted two days or more to the work, I do not now remember, but I recollect distinctly that they were completed late at night, or before daylight in the morning, and that the Consul was in a very bad humor about it; and also that these witnesses were fairly educated, intelligent, cautious men, and scrupulously careful in reading over and correcting their depositions in many places, after they were written down before the Consul, which was done exactly as they gave them, notwithstanding which, they were so scratched I had to copy whole sheets of their depositions during the night mentioned, to satisfy them, and when they were corrected and copied precisely as requested by these witnesses, they, and each of them, declared said depositions correct and true in all respects, as to the facts stated in them, and they subscribed their proper names to the same, in my presence and in the presence of Isaac Sisson, the United States Consul, by whom they were taken.

Question 14. Were these witnesses, Loaiza or the Gamboa brothers, or either of them, prompted or interfered with in any way by the attorney of claimants, or by any other person in giving their said depositions before Consul Sisson, in May, 1870, or before or after giving them, or were the proceedings irregular, unlawful, or improperly conducted in any way in the taking of said depositions?

Answer. No; nothing of the kind happened; the proceedings were lawful and honorably conducted by the consul, the attorney, and myself, as interpreter and acting secretary of the consul in transcribing said depositions, which I did, as I have stated, at the special request of said witnesses themselves. After they came to Mazatlan and consulted me as to the propriety of testifying before the consul, and they had made up their minds that it would be proper and right to do so, I believe that no person interfered with them, or attempted to prompt them as to their evidence before their depositions were completed, corrected, sworn to, and signed by them, nor do I believe that any one could have approached them in such way, excepting only the authorities, who had the power to compel them, or influence their depositions. I know said depositions contained precisely what they had previously stated to me that they knew with reference to said American claimants and their claims; and they contained nothing more than they told me was true, both before and after giving their said depositions.

The attorney for claimants, Mr. Adams, was present only a part of the time during the writing down of said depositions before the United States Consul, but said attorney did not interfere with any of said witnesses, nor with the proceedings, or the taking of their depositions in any way. The fact is, the said witnesses made their statements before Consul Sisson in these cases, with such candor and detail of circumstances as to carry conviction to my mind that they were speaking the truth, and I still believe they told the truth in those depositions; and when they came to my office, the day after they had testified in support of this claim and the two other claims mentioned, Trinidad Gamboa told me of his unhappy interview with Governor Rubi, and the Governor's threats of confiscation, and other punishments, if he and his brother did not testify on the side of Mexico, ignoring their depositions on behalf of claimants, and requested me to send for Mr. Adams, the claimant's attorney. I sent for said attorney, as requested, and he came to my office, and there he met both Trinidad and Juan Francisco Gamboa, in my presence, when Mr. Adams told said witnesses in my

hearing, that if there was one untruthful statement, or word, contained in those depositions, he did not wish to keep them, and would not permit them to be filed at Washington, upon any account. One of the brothers, Gamboa, I do not remember whether it was Juan Francisco or Trinidad, remarked, at that point, that he, the attorney for claimants, had given them barely money enough to pay their ordinary expenses from Cabazan to Mazatlan and back home, and if they should have the trouble with Governor Rubi, which they then anticipated, he, Gamboa, thought it no more than right and fair that said attorney for claimants should see that they were indemnified in some way for their loss of time, and for any trouble that might come to them. This was at once regarded, and resented by Mr. Adams, as an effort on the part of witnesses to place him, the attorney, in a false position, and he frankly told them so, declaring at the same time, that he had paid their ordinary expenses to and from Mazatlan, and the lawful fees of witnesses, and that if money was what they meant by indemnity, that he would not give them another dollar, as such a proceeding would look like bribery—that he “declined to be placed in a false position in the matter”—which were, I think, the exact words used by him; and finally Mr. Adams offered to return said depositions to these witnesses, if they would say that the depositions, or either of them, contained any statements not strictly in accordance with the facts, or if they wished to change or correct them, that they should still have an opportunity to do so before the United States Consul, then, or at any time before his leaving Mazatlan; to all of which said witnesses, the Gamboa brothers, and Loaliza, answered in my presence and hearing, that the depositions were truthful in all respects; that they had already made all the corrections they wished to make in said depositions, and they all then consented that the attorney should keep the said depositions, 254 and file them before the Joint Commission at Washington as their testimony in this and the other cases referred to, and they would take the risk of punishment, and they parted with said attorney in a friendly manner, though they were apparently despondent, and fearful of serious trouble with the authorities for testifying in support of these claims against Mexico.

Question 15. Do you, or not, know anything about “prestamos,” or forced loans, having been exacted and collected by Mexican military authorities, from claimants, or from foreigners generally, or of claimants’ arrest and abuse by said military, during the late wars there—say from 1863 to 1867, especially in the State of Sinaloa and other States under the military jurisdiction or command of General Ramon Corona? State what you know in relation thereto?

Answer. Yes, I know that such exactions from foreigners were made and enforced by the military authorities all over the States of Sinaloa, Durango, Jalisco, and probably elsewhere under the command of General Ramon Corona. As editor and publisher of newspapers during the war and revolutions there, it was a part of my business and duty to inform myself as to what was going on there, and sometimes to publish the facts with regard to such depredations, but not always, as their publicity was sometimes forbidden by the military authorities, on account of the effect that such publicity would produce abroad. I do not know, of my own knowledge, that prestamos were so exacted and collected from the claimants in this case, but I have heard respectable Mexicans say so, and also that the claimant, Tobin, was arrested by the military, held as a prisoner for several days at a time, and that on one occasion he was placed under the fire of the enemy’s guns, on the battle-field, at “Palos Prietos,” near Mazatlan. This last-named outrage was detailed to me in full, by Lieutenant Henry Malcolm, a cavalry officer of the Mexican army—under command of General Corona, and I have heard the same facts stated by others, Mexican officers of that army, who said they disapproved of such unnecessary cruelty.

Question 16. What officers of the army, under General Corona, were authorized or allowed to exact and collect such “prestamos,” or forced loans from foreigners?

Answer. All officers on duty, from Major Generals down to Lieutenants, and I have known of cases there where non-commissioned officers, and private soldiers of that command exacted and collected such prestamos, with or without the authority of their superiors in command. Such cases were common—and an every day occurrence, during the late wars there, not only during the time covered by the question, from 1863 to 1867, but even up to the day I left that country, in May, 1872, such exactions were still made and enforced in that military department, by said authorities.

Question 17. How do you know, or how were you made acquainted with the facts stated by you, in answer to the foregoing question?

Answer. By living within the military jurisdiction of General Corona, during the time referred to, and by listening to the statements of the military officers of the Republic, many of whom often stated to me that they were ordered by their superior officers in command to make such demands, and to seize, for the use of their troops, all or any provisions, or supplies found with any one, or any money, goods, chattels or other things of value, which could be converted into money, or supplies for the army, in case they should refuse or neglect to pay such prestamos; and in many 255 cases the said military authorities of the Republic, seized and converted to

their use, the goods, provisions and other supplies needed by the army, without stopping to make said exactions, or of going through the form of levying prestamos. I know the facts; too, by conversing with the sufferers, soon after the depredations were committed there, some of whom were broken up and ruined in their several enterprises, of which General Corona was the chief.

Question 18. Will you please name some of the foreigners of Sinaloa and Durango, who have suffered heavy losses, or ruin, as stated by you, on account of said acts of the Mexican military authorities?

Answer. Yes, I know a Spanish house, in Mazatlan,—that of Echeguren Harmanos & Co., late “Echeguren—Quintana y Co.” who have suffered in this way, i. e. by such prestamos alone, exacted by said military authorities, and the payment enforced from them, to the extent of nearly or quite a quarter of a million of dollars, during the time referred to; and I know of many other foreign houses there who have been compelled by said authorities to pay large prestamos for the support of said army, amongst whom I will name “Echenique Pena y Co.” “Careaga y Co.,” “Storzel Bartning & Co.,” “Melchers & Co.,” John Valcke, and “Kelly & Co.,” and amongst the American miners, farmers, and manufacturers, who have suffered in the same way—many of them having been broken up and entirely ruined by the said acts of the military, combined with the prefects of the Districts, and other local authorities, I will mention the “Trinidad & San Jose Silver Mining Company”—John Middleton, of this city, Charles Bouttier, a partner of the above, whose brother, Leopoldo, the Superintendent of their mines, actually died from the effects of his imprisonment, who was maltreated and abused, in nameless ways, while a prisoner, because he had the misfortune to have been born in France, which facts I learned from the Mexican officers themselves; George Briggs, a farmer; one Mr. Elliott; Alfred Howell, a manufacturer at Mazatlan; the “Carmen Mining Company,” Daniel Green, of this city, John Cole, of Camancho, near Mazatlan, “La Abra Silver Mining Company,” and James Tobin, this claimant.

Question 19. Would it have been possible, in your judgment, for claimant, or his attorney in this case, to have taken the testimony before a Mexican judge in the District of San Ygnacio, Sinaloa, in May, 1870, or since that time, in support of this, or any of the other claims of Americans against Mexico which you have named, with safety, or with any hope of justice or fairness to claimants on the part of such Mexican judge?

Answer. No, I think not; no testimony reflecting upon the military commander, General Corona, or the commander of the state, Governor Rubi, or any of his staff, could have been taken before the judge at San Ygnacio, with the least hope of fairness or justice to claimants.

I often told Governor Rubi that I thought he would do the republic more harm than good by pursuing his unusual course towards American claimants, but he insisted on beating these claims at all hazards. I do not believe, I am sorry to say, that either the claimant in this case, or the other American claimants referred to, would have found any show of fairness or justice in attempting to take depositions before the local authorities of that district, or any other within that military jurisdiction.

Question 20. Are you acquainted in said district of San Ygnacio, or have you ever been there, before or after you were governor of Lower California?

256 Answer. Yes; I am well acquainted there.

Question 21. Have you ever been upon the ground of claimant's works at San Geronimo—or do you know their value, or the amount of his expenditures and losses there?

Answer. No; I know of his works and molestations, and losses there only as I have stated.

Question 22. Do you know of certain proclamations having been issued by the proper authorities of the supreme government of Mexico, within fifteen years last past, inviting foreigners there, with capital, to develop the mineral and agricultural interests of Mexico, and of the effect of said proclamations upon the interests of claimant, and other Americans who are now claimants before the high court of the two governments? State what you know in relation thereto, giving their contents so far as you can recollect them, and whether said proclamations were carried out in good faith by Mexican authorities, local or national, or any proper or lawful efforts made to extend such protection by said authorities?

Answer. Yes, I know of such proclamations, as a number of them were issued during the last fifteen years, by the head of the supreme government—President Juarez, and they were published by me at La Paz, and at Mazatlan, I have no doubt, at the time, or soon after they were issued.

The last of said proclamations was issued, I think, early in 1865, in which the protection of the supreme government, and all of the authorities, were pledged to such foreigners in defence of their lawful rights, both of persons and property, with certain exemption of taxes, “port-dues,” and other immunities named therein, to be given to such foreigners as should accept said invitation and pledges, all of which were

published to the world, at the time, by the journals of Mexico and the United States. These proclamations, and their promises to foreigners, were endorsed and published by the authorities of Sinaloa, and other Mexican States, which undoubtedly induced American capitalists—the claimants referred to amongst the number—to make said investments there, and to risk their money and lives in said enterprises, which were, in the main, broken up and destroyed for the want of the protection so promised, which the authorities were, I believe, unwilling to grant.

Question 23. Have you any unfriendly or personal feeling against said Governor, Domingo Rubi, or against the said Secretary, or have you ever been unfriendly with, or cherished feeling against either of them?

Answer. No, not at all; but on the contrary, Governor Rubi and myself were always friends, personally, and we are friends yet, so far as I know. Indeed, the personal friendship of Governor Rubi and myself was always of the most intimate character. We had our political differences, but were always personal friends. I appreciated his fine social qualities, and, personally, I entertain none but the kindest feelings for him; although there are many of his official acts and national prejudices that I do not and cannot approve—some of which I have already stated in this deposition.

Question 24th. State any other facts, or any information in your possession, for the benefit of claimant in this matter?

Answer. I can think of nothing more.

Question 25th. Have you any interest, direct, contingent or otherwise, in this claim, or either of the claims to which your deposition relates, or are you agent or attorney for said claimants, or either of them, or for any person having such interest?

Answer. No, I have no such interest, in this claim or any of the others referred to, against Mexico—neither am I attorney or agent for any person or persons having such interest; but in the case of *George Briggs vs. Mexico*, I am, or was, counsel, as I have already stated. It is true, however, that I have acted as counsel and attorney in a number of cases on the other side, while I resided in Mazatlan, as mentioned in my answer to one of the foregoing questions, and I am still interested, as counsel, in some of those cases against the United States.

CARLOS F. GALAN.

Sworn to and subscribed before me, the third day of January, A. D. 1874, in the presence of

R. FORBES.

RAMON DE ZALDO,
Notary Public.

[L. S.] STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, Ramon de Zaldo, Notary Public, in and for the aforesaid City County and State, duly sworn and commissioned as such, do hereby certify that Carlos F. Galan, who is personally well known to me as the same person he represents himself to be in the foregoing deposition, and who is also known to me by reputation for fifteen years last past, personally appeared before me at my office in said city and county, at 10 o'clock on this the 3rd day of January, A. D. 1874, and having been duly sworn by me according to law to state the whole truth, and nothing but the truth, with reference to what he knows of the above entitled cause, deposed and testified, in answer to the interrogatories, as stated in the foregoing deposition; that the said answers were written down in his presence and upon his dictation; that after said deposition was completed, the witness, Carlos F. Galan, carefully read over the same, and in my presence he thereupon confirmed the truth of the matters and things stated by him in said deposition, in every particular, and he subscribed his name to the same in my presence and in the presence of the subscribing witnesses. And I do further certify that I am personally well acquainted with the witness, Carlos F. Galan, and know his reputation to be good as a man of truth and veracity; that he is an attorney and counsellor-at-law, of high respectability, and of good standing at the bar of San Francisco, and that his statements are entitled to full faith and credit: and I further certify that I am competent by the laws of the State of California, to administer oaths and take depositions to be submitted in evidence before any of the legal tribunals of the United States, or the Joint Commission of the United States and Mexico, under the Treaty of July 4th 1868. I further certify that I have no interest, direct, contingent, or otherwise, in the claim or claims to which the foregoing deposition relates, and that I am neither agent nor attorney for any of said claimants, nor for any person having such interest.

Given under my hand and official notarial seal, this 3rd day of January, A. D., 1874.

RAMON DE ZALDO,
Notary Public.

258 [L. S.] STATE OF CALIFORNIA, }
Department of State. }

I, Drury Melone, Secretary of State of the State of California, do hereby certify that Ramon De Zaldo was, on the 4th day of June, A. D. 1872, has since been, and now is a duly commissioned, qualified and acting Notary Public in and for the County of San Francisco, in said State, and that full faith and credit are due to his official acts as such.

Witness my hand and the Great Seal of State, at office in Sacramento, California,
 [L. S.] the 6th day of January, A. D. 1874.

DRURY MELONE,
Secretary of State.

259

INDEX.

Page of
original print.

| | |
|--|-------------------------------|
| Abstract of Claimant's Title to La Abra Property | 11 |
| Certificate of Incorporation of Claimant | 9 |
| Depositions Filed by Claimant— | |
| Adams, Alonzo W | 233 |
| Alley, Nicholas | 119 |
| Avalos, Matias | 48 |
| “ “ | 108 |
| Barraza, Pedro J. (Certificate) | 106 |
| Bartholow, Thomas J | 216 |
| Bissel, George C | 37 |
| Bouttier, Charles | 81 |
| Chavarria, Jesus | 90 |
| Clark, William G. S | 53 |
| Cole, John | 54 |
| Collins, George C | 29 |
| “ “ | 187 |
| Cryder, John P | 72 |
| Dahlgren, Charles B | 111 |
| Dana, Francis F | 69 |
| de la Peña, Antonio | 122 |
| de Valle, Juan Castillo | 71 |
| “ “ | 84 |
| Echeguren, Pedro | 123 |
| Ely, Sumner Stow | 229 |
| Exall, Charles H | 18 |
| “ “ | 191 |
| Gamboa, Juan Francisco | 61 |
| Granger, James (or Santiago) | 41 |
| “ “ (Exhibits referred to by him) | 52 |
| “ “ | 67 |
| Green, Alfred A | 24 |
| Loaiza, José Maria | 77 |
| Martin, Ralph | 208 |
| Mora, Marcos | 98 |
| Smith, William H | 31 |
| Depositions Filed by Defendant— | |
| Acosta, Francisco | 173 |
| Aguirre, Bernadino | 143 |
| Aguirre, Ramon | Questions p. 131, Answers 133 |
| Arnold, Agasito | Questions p. 178, Answers 182 |
| Avalos, Matias | 165 |
| Calderon, Aquilino | Questions p. 131, Answers 134 |
| “ “ | 167 |
| Camacho, Patricio | 129 |
| Contreras, Camilo | 169 |
| Contreras, Emilio | Questions p. 178, Answers 180 |
| Delgado, Martin | 157 |
| “ “ | 170 |
| “ “ | Questions p. 178, Answers 180 |
| de Valle, Juan Castillo | Questions p. 175, Answers 176 |
| Fonseca, Refugio | Questions p. 131, Answers 134 |
| “ “ | 140 |
| “ “ | 159 |

260

| | Page of original print |
|---|----------------------------|
| Depositions Filed by Defendant— | |
| Galvan, Benigno | 142 |
| Granger, Santiago (or James) | 136 |
| “ “ | 147 |
| “ “ | 160 |
| “ “ | 162 |
| Gurrola, Paz | 169 |
| Guitierrez, Dionisio | 172 |
| Jimenez, Maria Cecelia | 138 |
| “ “ | 156 |
| Laveaga, Arcadio | 182 |
| “ “ (Certificate) | 158 |
| “ “ | 172 |
| Laveaga, Miguel | 181 |
| Manjarrez, Cepomuceno | 183 |
| Manjarrez, Ygnacio | 136 |
| “ “ | 149 |
| “ “ | 179 |
| Martinez, Guadalupe | 157 |
| Molina, Leandro | 144 |
| Nunez, Pio Quinto | 145 |
| Rodriguez, Bartolo | 131 |
| “ “ | 139 |
| “ “ | 163 |
| “ “ | 185 |
| “ “ | Questions, p. 178, Answers |
| Rodriguez, Tomasio | 158 |
| Romero, Julian | 146 |
| Ruiz, Gil | 168 |
| “ “ | 171 |
| Sandoval, Victoriano | 164 |
| Santos, Petronilo | 143 |
| Serrano, Andres | 141 |
| Sloan, N. A | 148 |
| Soto, Guadalupe | 161 |
| “ “ | 166 |
| “ “ | 171 |
| Torres, Jesus | 173 |
| Exhibits referred to in deposition of James Granger on page 44 | 52 |
| Incorporation of claimant, certificate of | 9 |
| Instruction to consul by State Department, (in deposition of A. W. Adams) .. | 240 |
| Letter of Santiago Granger | 150 |
| Orders from Mexican authorities to claimant | 52, 53, 154 |
| Titles of claimant to La Abra property, abstract of | 11 |
| Rebutting Testimony— | |
| Deposition of Carlos F. Galan on behalf of Claimant | 247 |

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., January 24, 1889.

The subcommittee met pursuant to call. Present, Senators Morgan (chairman) and Dolph; Hon. John W. Foster and Mr. Robert B. Lines, representing the Government of Mexico, and Crammond Kennedy, esq., of counsel for La Abra Silver Mining Company.

TESTIMONY OF FRANCISCO TORRES.

FRANCISCO TORRES, sworn and examined.

The examination was conducted through an interpreter, José IGNACIO RODRIGUEZ, who was also sworn.

MR. KENNEDY. Before the proceedings formally commence I am instructed, if it please you, to renew the protest that will be found on pages 2 and 3 of the printed testimony, the last document in the case.

THE CHAIRMAN. The committee will consider that protest as accompanying the whole proceedings in the case. It goes to the merits of the question as to the right to investigate or re-investigate the case.

MR. KENNEDY. Yes, sir; the provision of the treaty which binds the two governments to consider the awards made by the commissioners or the umpire as absolutely final is the provision, of course, upon which we base our protest.

THE CHAIRMAN. Now, General Foster, you can proceed.

MR. KENNEDY. Will you allow me to ask whether this witness has ever been examined before; and if so, on what side?

THE CHAIRMAN. Certainly.

THE INTERPRETER. He says he has before given a deposition in La Abra case.

By MR. KENNEDY:

Q. On behalf of the Mexican Government?—A. On behalf of the Mexican Government.

MR. KENNEDY. Now, Mr. Chairman, will you allow me to ask Mr. Foster what he intends to prove by this witness?

MR. FOSTER. I do not think the witness understands your question. No deposition of his has ever been filed, so far as the records show.

MR. KENNEDY. Yes; on page 52—

MR. FOSTER. I was looking at the index on the last page of this publication; 50, I think.

MR. KENNEDY. The side page, Mr. Foster, 52.

MR. FOSTER. The side page of what page of the book?

MR. KENNEDY. One hundred and seventy-three. There is side paging.

MR. FOSTER. What page?

MR. KENNEDY. The index says it is 173.

MR. FOSTER. Yes. Jesus Torrez?

MR. KENNEDY. Yes; is that a different man?

MR. FOSTER. Yes; this is Francisco. That is a lawyer, it appears, the licenciado, Jesus Torrez.

MR. KENNEDY. Well, Mr. Foster, you said you did not think the witness understood my question when he answered that he had been previously examined on behalf of the Mexican Government.

MR. FOSTER. From the fact that no deposition of his appears in the records so far as I have discovered upon an examination of them.

Mr. KENNEDY. Well, suppose you examine him in a preliminary way upon that point. I just want to know what his status is.

By Mr. FOSTER (to the interpreter):

Q. Ask the witness whether he is certain that the deposition that he gave of which he speaks was in relation to this claim of the American company against the Mexican Government or some other business?—A. He says he gave a deposition in an investigation which the Government of Mexico made to find out how the estate or property had been destroyed.

By the CHAIRMAN:

Q. Who was the commissioner or notary before whom that deposition was given?—A. He says that he does not remember the name, but he was a competent judge to make this investigation.

The CHAIRMAN. You can proceed now with your examination, Mr. Foster.

By Mr. FOSTER:

Q. Ask him to state his name, his age, his residence, and his occupation—A. Francisco Torres; sixty-one years; San Dimas; miner and refiner of metals in his own property and in others.

Q. Where was he born and where has he passed his life?—A. He was born in Tayoltita and passed his life in San Dimas; he has been away from there, but permanently residing in San Dimas.

Q. Has he spent part of his life in Tayoltita?—A. He has spent in Tayoltita a little more or less.

Q. In what has he been engaged during his life?—A. Working in his profession aforesaid and managing his own property.

Q. Does he regard himself as well skilled in the knowledge of metals?

Mr. KENNEDY. One moment, please. If you are going to lay a foundation for examining him as an expert, I suggest that, instead of taking his own judgment, you question him in regard to his education and experience in that business.

The CHAIRMAN. It would be better to lay the foundation that way, General Foster. Ask him what has been his experience in the mining of metals, of silver and gold.

The INTERPRETER. He says that in that locality he has a very well established reputation as an expert in these matters, but he does not know whether it is founded upon his own merits or upon the popular feeling there.

Q. Well, he can tell what experience he has had.—A. He has repeated the same statement he made before; they consider him expert, but he does not know whether that is well founded or not.

By Mr. FOSTER:

Q. Well, we are not asking him now as to whether he is an expert, but what his experience is, and you will explain that a little more in detail, because he evidently does not understand the question; what his own experience in mining has been; what he has done in that direction?—A. He seems not to have understood the question. He has answered saying that he has undertaken work in several mines, that in some cases he has succeeded in making money out of them, and in some others the enterprise has been a failure, but that everybody calls him to do work.

Mr. FOSTER. I suppose the committee will allow me to ask a leading question to bring him to the point. Has he ever worked in a mine, taking out the metal, during his life?

A. He has worked in mines and had worked with the ore.

By the CHAIRMAN:

Q. Now, I will ask him on behalf of the committee to state briefly what mines he has worked in.

A. In San Dimas he has worked only the mines named, Bolanos, San Tonino, the Candelaria, and also in Tayoltita.

By Mr. FOSTER:

Q. What mines there?—A. In the mines La Luz and La Arrayan. The La Luz was named Rosario.

By Mr. DOLPH:

Q. Has he completed his statement about the mines?—A. Yes.

Q. Ask him to state as near as he can recollect when and for about how long and in what capacity he worked in these mines. You understand what I mean by capacity?

Mr. KENNEDY. Whether as a refiner or assayer?

By Mr. DOLPH:

Q. Yes, whether as laborer, refiner or assayer, superintendent, or otherwise.—A. He says that in the mines of Tayoltita he has worked from 1869 to 1870, and in the other for several years; can not state particularly how many. He says that his work has been at the head of the business. I suppose it has been as superintendent of the mine.

By Mr. FOSTER:

Q. Yes; that is, proprietor?—A. Having laborers under his direction.

Q. How young was he when he began to work in the mines first?—

A. He says he was born in the mine, and spent his childhood with miners, and began to work as a miner when he was twelve years old.

Q. Did he work in extracting metals from the mines when he was a boy, and how long after that?—A. He was worked in a way, sometimes for wages and sometimes in his own business.

Q. How many years did he work in the mines in extracting metals from them in his youth?—A. He has been personally working in the mines since he was twelve years old, and in this time he has also been engaged in his work as a refiner.

Q. In what other capacity has he been connected with mining operations, besides taking the metal from the mines during all his life?—A. He says that besides taking the ore he has worked with that ore, and extracted from it the metal that was there; I suppose this was as melter and refiner.

Q. Ask him whether he has also worked mines as the proprietor of the mines, or in any such capacity as that.

Mr. KENNEDY. He has said that already.

A. He has worked some as proprietor and some other as superintendent, paid by the owners.

By Mr. FOSTER:

Q. Ask him whether he was ever engaged in the mines at Tayoltita during the time they were owned by Don Juan Castillo de Valle.—A. He has worked there, but not in the mine, but in the hacienda, working on the ore and extracting the silver.

Q. Beneficiating, you mean? About what time was that that he worked for Castillo de Valle at Tayoltita?—A. He says before he sold that property to the American company.

Q. Can he give about the year when he was there; was it immedi-

ately before, or how long before?—A. He says about one year before that sale.

By Mr. DOLPH:

Q. Ask him if he means to say he worked there for the period of one year just prior to the sale, or that his last work was a year before the sale?—A. He says that he means that he worked for Don Castillo de Valle when nothing was spoken of the sale, and that the sale took place one year after he had been working there.

Q. Did he continue to work up to the time of the sale?—A. No; he did not continue to work until the sale.

By Mr. FOSTER:

Q. That is, his work was done a year before?—A. A year before.

By Mr. DOLPH:

Q. No, I am not quite certain of that; how long before the sale did he quit working for Castillo de Valle?—A. He ceased to work one year before the sale.

Mr. KENNEDY. Now, Senator, will you ask him how long he did work?

By Mr. DOLPH:

Q. Yes, ask him how long he did work for De Valle?—A. About two months.

By Mr. FOSTER:

Q. After he left the employment of Castillo de Valle where did he go?—A. He went to work at Baluarte in San Dimas.

Q. How far is San Dimas from Tayoltita?—A. Two hours and a half.

Q. Did he have general knowledge of the condition of the mining operations in Tayoltita during that time that he lived at San Dimas?—A. He says he knew almost all about it, because they are places very near each other, and all is known among the neighbors, and the laborers communicate to each other all that transpires in the locality.

Q. Now ask him what was the condition of the mining business of Castillo de Valle at Tayoltita while he was engaged in working for him?—A. He says that the condition was rather bad, one of the mines was full of water.

Q. Well, translate *terminando*.—A. He says the business was almost at an end.

Q. Go on about the Rosario; tell the rest of his answer, what he said about the Rosario?—A. He says that the mine at Rosario was full of water, and that all the others were in bad condition except La Luz, which was in operation.

Mr. DOLPH. I suggest, Mr. Interpreter, that you had better stop the witness whenever you have got as much as you can translate and keep in your mind. I think I should stop him from talking when you have got to that point.

The INTERPRETER. I did not know I was authorized to do that.

Mr. DOLPH. Then let him know when to proceed. You can inform him in your own way, before another question is asked, that when you have as much as you can translate you will stop him, and then when you signify it, he can go on again, so that he can go on with his answer to the same question. I think you will satisfy the counsel better by that course.

By Mr. FOSTER:

Q. It is impossible to remember when he talks so much. What was the character of the metals being taken from the mines at that time?

Mr. KENNEDY. Will you allow me to suggest that you had better designate the mines?

Mr. FOSTER. Well, I was speaking in general.

Mr. KENNEDY. Do you mean in the whole district of San Dimas?

Mr. FOSTER. No; I mean the mines of Castillo de Valle, working at the time that he was engaged.

Mr. KENNEDY. That is it; that is why I made the suggestion.

By Mr. FOSTER:

Q. Well, I will modify it so as to suit you, and also not to go over the ground already gone over. What was the character of the metals being taken from La Luz mine?

The INTERPRETER. When he worked there?

Q. Yes. He has just answered the question that the only mine they were working was La Luz mine; I want to ascertain what was the quality of the ore taken from La Luz mine at the time he was working there for him.

Mr. KENNEDY. Mr. Chairman, the witness has testified that he stopped working a year before del Valle sold to the American Company, and that he went back to San Dimas. Now Mr. Foster asks the witness what was the character of the ore that was taken out of La Luz. I suppose he means at the time that the witness was in the employ of de Valle.

Mr. FOSTER. I put that into the question.

Mr. KENNEDY. That is all right. I simply want the witness not to misunderstand.

The INTERPRETER. He says that he can not say what was the character or the quality of the ore taken from that mine, because his work was done upon the mineral after refined. That ore seems to be submitted first to a preliminary refinement, and then went to his hands, and for that reason he says he can not say what was the nature or the character of the original ore.

By Mr. FOSTER:

Q. What result did it give upon his beneficiating?—A. He says that the result was very good.

Q. But give the whole of it, "but he could not tell what the amount was that went in."

Mr. KENNEDY. Well, let the interpreter say what the witness says.

The INTERPRETER. The witness says that he can not give the amount of ore out of which—

By Mr. FOSTER:

Q. "Can not tell," is it not?—A. Yes; the amount out of which he obtained that result which he calls good.

Q. What was the general report as to the condition of the mines at the time of the sale by Castillo de Valle to La Abra Company?

Mr. KENNEDY. Mr. Chairman, we object, of course, to that. Mr. Foster has shown by his own witness that the witness stopped working for de Valle before the property was sold, and general report in San Dimas, the place to which this witness went, would be no evidence whatever as to the actual character of de Valle's property.

Mr. FOSTER. He has already stated that he was within two hours' ride of there, and was in frequent communication, and the operatives were passing to and fro all the time. My question is to show what the general character of these reports were. In all mining districts it is very well known what the general character of the negotiation or business is. I want simply to show that.

Mr. DOLPH. The question, I do not think, would be a competent one in a legal proceeding. It would not be competent to show the value of property in that manner.

Mr. FOSTER. I only desired to give it for what it was worth—what the report in the community was.

Mr. LINES. Pardon me one moment. The whole of the testimony which was produced before the commission in behalf of the company was of that character, was of the general valuation placed upon these mines, etc. Now, if this be considered in that light, I submit that while it might not be entirely competent evidence in any ordinary proceeding at law, yet, considered in connection with the character of the testimony on which these awards were made, I think it is quite as competent as that was.

Mr. DOLPH. Can the counsel, without trouble, refer me to the testimony?

Mr. FOSTER. We can refer you to not less than twenty witnesses who made declarations as to general reports.

Mr. DOLPH. While counsel are looking up the matter I will ask the witness a few questions to see if there is not a better way to get at the matter. Ask the witness how often he was at the hacienda at Tayoltita, between the time he quit work for Castillo de Valle, and the time La Luz mine was sold to the American company.

Mr. KENNEDY. If the Senator will pardon me I think that if the witness is to be examined on the value of La Luz mine or any other mine of del Valle, the question should be, what examination, if any, he made of the ores taken from that mine, whether he took them out himself, and whether he made an assay. I need not say to you, Mr. Chairman, that of all properties in the world the value of mining property is the most uncertain, and, even with all the appliances of science, very difficult to determine.

While I am on my feet I would like also to say, in answer to what Mr. Lines suggested, that instead of the value of this property having been approved before the commission by general report, the company gave testimony to show to a cent what they spent, what they paid for the different mines that were purchased, and also what they paid for machinery, how they transported their machinery over the mountains, and they made such proofs as would have been competent to go to any jury in Christendom.

Mr. DOLPH. I think the witness may answer the question.

The INTERPRETER. He says that he has gone there several times; sometimes two months, sometimes two months and a half, but often going from San Dimas to Tayoltita.

Q. Ask him whether or not, during the time he was in the employ of de Valle, he was in La Luz mine, and had an opportunity to inspect, and did inspect, the ore that came out of the mine.—**A.** He says that he had no opportunity to examine the nature of that ore.

By Mr. KENNEDY:

Q. In the mine?—**A.** In La Luz, the ore taken out of La Luz.

Mr. DOLPH. Well, he has not answered the question whether he was in the mine.

By Mr. FOSTER:

Q. Fix the time; when he was working there?—**A.** When he was working for Castillo de Valle he was not in the mine.

By Mr. DOLPH:

Q. Was he ever in the mine?

By Mr. FOSTER :

Q. At any time during his life ?—A. He says that he has worked in the mine La Luz after the mine was sold to the American Company.

By Mr. DOLPH :

Q. In what capacity ?—A. He says that he has worked on his own account and employed his own money there.

By Mr. FOSTER :

Q. La Luz ?—A. La Luz ; yes, sir.

By Mr. KENNEDY :

Q. Since the company went away from La Abra or from Tayoltita ?—A. He says that after the company left La Abra mine.

By Mr. FOSTER :

Q. No ; after La Abra Mining Company left Tayoltita ?—A. He says that when the company abandoned La Abra mine he went to work there with the permission of Don Santiago Granger.

By Mr. DOLPH :

Q. Ask him if, while he worked at the hacienda under de Valle, he saw the ore in bulk on the patio that had been brought from La Luz mine.—A. He says he did not see the ore taken from the mine.

Q. How long did he work in the mine on his own account after the American Company had abandoned the mine ?—A. Between two and three years.

Mr. DOLPH. (To the counsel.) I will hear what you have to say about the testimony given before the commission as to the common report in regard to the value of the mine.

Mr. LINES. The allegation is that this company went to Mexico and purchased these mines upon the reports which they had had of their richness ; that is, to a great extent. They made some examination themselves. Here is the testimony of William H. Smith.

Mr. KENNEDY. On what page ?

Mr. FOSTER. Is it page 546 of this publication ?

Mr. KENNEDY. What is your page, Mr. Lines ?

Mr. LINES. Two hundred and seventy-nine. He testified that he was asked by Don Castillo de Valle to sell these mines, and he says (on page 32 of the claimant's testimony) :

Said mines were well known, and generally spoken of as exceedingly valuable property—one of the richest of the mines of San Dimas. All, or nearly all, of the veins or lodes, of different names, at Tayoltita, were owned by, and constituted the property of said company. They are somewhat famous in history, having been favorably spoken of by Baron Von Humboldt in his Book of Travels (" Essai Politique"), and commented upon at length by the British explorer, Ward, in reference to this same " La Abra " property, as follows (Ward's Mexico, pages 559 and 573) :
and so on, and so on, giving that sort of testimony.

Mr. DOLPH. That is sufficient for my purposes.

Mr. LINES. There are three or four other references here.

Mr. DOLPH. The question certainly would not be a competent one if the issue was simply the value of the property, but as the questions under examination go farther than that, and it is alleged that the award was obtained by false testimony, I think, it appearing that testimony was admitted before the Commission as to common report concerning the value of the mines, this question is competent, but I will receive it for the time being subject to be stricken out on consultation with the other members of the subcommittee.

Mr. KENNEDY. Will the chairman allow me to say just one word? Mr. Lines, whose testimony was it you read from?

Mr. LINES. William H. Smith. He had been del Valle's agent to sell the mines. There are one or two more extracts here that I might put in.

Mr. DOLPH. It appearing that the testimony of one witness as to common report was received before the Commission, I think that is sufficient for the committee.

Mr. FOSTER. Following Mr. Lines, here is the testimony of Captain Dahlgren, who came there after the company had left. He says—I am reading from page 404 of this book, page 115 of the claimants' book of testimony:

Question 9. What is the character of the mines owned and worked by said "Abra Company" at Tayoltita, which you have named, so far as regards their richness of metal, and supply of the same?—Ans. It is good. They are undoubtedly among the best and most valuable of all the silver mines of Mexico, and some of them are not unknown to fame for their rich and abundant productions. I refer more particularly to "La Abra," "El Rosario," "La Talpa," and "El Cristo" veins, etc.

Mr. DOLPH. I think that is an entirely different question. I understand the question you read calls for the knowledge of the witness.

Mr. FOSTER. Here is another witness, John Cole, on page 55 of the claimants' book of testimony. He states that—

Of said property, five veins, owned and opened by "La Abra Silver Mining Company," and known respectively as "La Luz," "Cristo," "La Abra," "Rosario," and "Tapia," are of the richest in the State—a fact which has also been mentioned by Mr. Ward in his history of Mexico; that he knows the fact that fifty thousand (\$50,000) dollars in gold coin was paid, etc.

Mr. LINES. Here is one more.

Mr. DOLPH. Well, I hardly think it is necessary to continue the inquiry. Those questions and answers might refer to the actual knowledge of the witnesses; that would present a very different question from the one propounded to this witness, but it appearing, so far as I am now informed, that one witness before the joint commission testified to common report as to the value of the mines, in view of contradicting him, this answer may be received.

Mr. KENNEDY. I wish to say a word, Mr. Chairman, on that very point which you suggest, namely, whether the testimony which Mr. Lines has read is testimony based upon general report or upon the personal knowledge of the witness. Now it seems from the testimony itself, which I have now before me, that this man Smith had the most intimate personal knowledge not only of the mines in regard to which the witness has been examined, but also in regard to another and one of the most important mines of the company. He says that he lived in San Dimas, Durango, from 1861 to 1868. He says also that his occupation was that of a miner; that he worked in a mine 5 miles from La Abra; and then when he speaks of the report in regard to the mines, or rather in regard to their public reputation, you will notice that he quotes from Baron Humboldt, who had personally examined the mineral districts of the country, and he also quotes from volume 1 of Ward, who was a famous mineralogist, and who has written on that precise subject. The quotation is given here. Now I submit, with all respect, that that is entirely different testimony from asking a man who lived at San Dimas what was the general report in regard to the value of the mines at Tayoltita, and then suggesting, as Mr. Foster did, as a reason why that question is asked, that laborers were coming and going between the two places and were reporting to each other what they knew. The

reports of laborers in a case like this in not testimony that is worth anything.

Mr. DOLPH. There is no difference in principle between asking a witness who has personal knowledge of a fact what common rumor or report is in regard to a matter and asking a witness who has no personal knowledge the same question. The stenographer will read the question again, and it will be received, subject to be passed upon by the subcommittee when the committee is full.

The stenographer read the question, as follows :

Q. What was the general report as to the condition of the mines at the time of the sale by Castillo de Valle to La Abra Company ?

Mr. KENNEDY. You have already examined him on the condition of the property, and he has said that the mines were full of water.

Mr. FOSTER. No; I am asking now what was the common report of the condition of the mines at the time that Castillo del Valle sold the mines to La Abra Company ?

A. He says that the general opinion was that the mines were very poor and good for nothing.

Q. How do you translate *estar en borra* ?—A. He says that *estar en borra* means to have a very thin vein of metal, which did not give sufficient to meet the expenses.

Q. Now, if you please, ask the witness whether he visited the mines at Tayoltita during the time La Abra company was working them ; if so, when ?—A. He was ; two or three times. He can not give the dates.

Q. Can he give approximately the date of the last visit he made before the company ceased to work ?—A. He says that the last visit he made there he thinks was in 1867.

Q. Can he give the month approximately ?—A. He thinks it was in either September or October.

Q. Let him give an account of what he saw and heard during that last visit.

Mr. KENNEDY. One moment, please. Mr. Chairman, he ought not to tell what he heard during that last visit, but he ought to be asked what he did see. The question is so vague, that I am afraid the witness will lose himself.

Mr. FOSTER. I want to leave it free for him to testify without asking him leading questions.

Mr. DOLPH. I suggest that counsel modify the question and ask him to state what he saw in regard to the mine, and what he was told by the officers or agents of the company there, if anything.

Mr. LINES. Do not put it all together that way. I think he will be mixed up.

Mr. DOLPH. I suggest also that it will be better to divide it.

By Mr. FOSTER :

Q. Ask him to state what he saw was going on at the mines at that visit.—A. He says that in his last visit the mine was in its last moments ; the business of the mine was almost paralyzed.

Q. Was he told anything by any officer or employé of the company in regard to its business ?

Mr. KENNEDY. Strike out "employé," if you please, Mr. Chairman ; an employé of the company might not be anything but a laborer, and, of course, would not be an agent.

By Mr. FOSTER :

Q. And, if so, who that person was ?

Mr. DOLPH. Well, I suggest, Mr. Foster, that you leave out the inquiry in regard to an employé, and put that as a separate question; so that, in ruling upon it, it may be considered without being complicated with the other portion of the answer.

By Mr. FOSTER:

Q. Let me first follow up the former question by asking if there was any reduction of metals going on at the time of that visit?—A. There was no work done at that last visit. He says that Don Santiago Granger told him that they were expecting to receive resources to begin work again.

Q. From where; from abroad or from the mine?—A. He thinks from the company —

Mr. KENNEDY. One moment, Mr. Interpreter. I would like to have it noted, Mr. Chairman, if it please you, that the question whether Santiago Granger in September, 1867, was or was not such an employé of the company as to make his statements bind the company, is reserved for further ruling.

Mr. DOLPH. This whole examination is not proceeding as satisfactorily as it should. It is very difficult, in the first place, to examine a witness through an interpreter. Counsel may object to the answer of a witness; that will be the only way that his objection can appear of record.

Mr. KENNEDY. The objection then is, may it please you, Mr. Chairman, that in September or October, 1867, Santiago Granger was not such an employé of the company as to be, by the fact of his employment, an agent of the company; and hence what he said to the witness is inadmissible, and can not bind the company.

Mr. DOLPH. The examination will proceed.

By Mr. FOSTER:

Q. Ask the witness when he made his next visit to the hacienda, Tayoltita; how long after this visit of which he has been giving an account.—A. He says that he has not gone back to the hacienda, but that two or three months afterwards he went near the hacienda to a house there, and that Don Santiago Granger came to see him there.

Q. It was at Tayoltita; this house was in Tayoltita?

A. He says that the house is between 16 and 20 yards from the hacienda.

Q. In Tayoltita?

A. In Tayoltita.

Mr. KENNEDY. Mr. Foster, ask him what hacienda, please; there are two or three of them, you know.

By Mr. FOSTER:

Q. What hacienda?

A. He does not know exactly the name of the hacienda, but that the people there call it Tapacoya.

Q. No; but what I want to know is what was the hacienda that he refers to; was it the hacienda of La Abra Company?

A. The hacienda which La Abra Company bought from Don Juan Castillo de Valle.

Q. It was the principal hacienda of the company, was it?—A. It was the principal, where the machinery is.

Q. On the first visit that he made, the visit that he made in September or October, who was in charge of the company as superintendent

or administrator?—A. He says that it was in charge of a gentleman whom the people called El Mudo, the mute or silent.

Q. It appears in Exall's deposition before the commission that he was known among the people as El Mudo. At the last visit, that he has just been speaking of, who was in charge of the hacienda as superintendent, or representative of the company?

The INTERPRETER. After that El Mudo?

Q. No; this last visit that he has just been speaking of?

By Mr. KENNEDY:

Q. At the little house near the principal hacienda when he saw Granger, who was it that was then superintendent of the company?

By Mr. FOSTER:

Q. Yes; superintendent or representative of the company?—A. Don Santiago Granger was recognized as such there.

Q. As what?—A. He represented there the hacienda.

Q. Was El Mudo there?—A. He did not see him.

Q. Did he know or hear anything of his whereabouts; where he was?—A. He had left, but he did not know where he had gone.

Q. How long was it after the visit that he made in September or October, when Granger talked with him about the condition of the hacienda, that he made this next visit he speaks of?—A. He says about three or four months.

Q. Does he know who remained in charge of the hacienda after this last visit?—A. Don Santiago Granger remained at the head of the business until the end.

Q. What does he know of Granger's operations, or what disposition did Granger make of the property of the company?—A. He sold some things, as salt, quicksilver, and tools, and one wheel of the machinery was taken out and sold to Don Carlos Dahlgren, and tools were sold to Don Juan Cuevas.

Q. To whom was this salt, quicksilver, and other articles he mentions sold?—A. To Mr. Rice, superintendent of the Durango Mining Company, and to some other miners—people of El Baluarte.

Q. To any other owners of mines or workers of mines in that neighborhood?—A. He does not know exactly whether there were any others. He says that whenever opportunity offered a sale was made, but that he did not know particularly the names of the purchasers.

Q. By whom were these sales made?—A. Don Santiago Granger.

Q. Now, is he sure that Granger sold Dalghren this wheel, or whether Dalghren took it after Granger had left?—A. He is sure that the wheel was sold to Dalghren by Granger because he was in close relation with Granger.

Q. How long did Granger remain in the hacienda after the company left?—A. He says that he remained there three or four years after the company disappeared.

Q. Is Granger now living?—A. He died in some place between Durango and El Porto.

Q. He has referred to the time when he worked La Luz mine as proprietor or associated with Granger. Ask him if he can fix approximately when he was so engaged?—A. He can not say exactly, but he thinks it was some time between 1868 and 1871.

Q. By whom was the mine denounced, if it was denounced?

The INTERPRETER. Which mine, La Luz?

Q. La Luz, or whatever the mine was called?—A. When he began to

work in the mine the mine was not denounced, but afterwards Granger—

Q. Well, he says how he worked; with whose permission; he stated that he worked with the permission of some person?—A. Yes; with the permission of Granger, and then it was denounced by Granger.

Q. Does he remember what was the name of the mine denounced?—A. El Rosario mine.

Q. Under that denouncement he worked La Luz mine?—A. He says he worked in La Luz; he denounced the Rosario, and, with the Rosario, he took hold of La Luz.

Q. Ask him how far apart these two mines were?—A. A little over 100 yards.

Q. Under what arrangement did he work those mines with Granger?—A. The arrangement was to work in partnership, but Granger failed to contribute his share of the money, and he had to put out of his own pocket the money.

Q. How long did he work La Luz mine?—A. About two years.

Q. What was the result of the working of the mine?—A. Very bad result; he lost about \$9,000.

Q. What was the character of the ore taken out of the mine at the time he worked?—A. Very poor; yielding 12 ounces per load.

Q. Was that sufficient to pay for extracting the ore?—A. It was not sufficient.

Q. After El Mudo left Tayoltita in what condition were the mines which belonged to La Abra Company left?—A. In very bad condition.

Q. Were they worked by any person?—A. He says that a man named Salazar did some little work there, but lost also.

Q. State whether the mines were open to denouncement during this time, or what condition they were in as to that.

Mr. KENNEDY. Pardon me one moment, Mr. Chairman. Would it not be better to see if the witness knows what the laws of Mexico are in regard to denouncement before that question is asked?

Mr. FOSTER. I should think, after he has testified that he had been engaged in the business from his youth, he would know.

Mr. KENNEDY. The question was, were the mines open to denouncement? My objection is that it ought to appear first whether the witness knows—

Mr. DOLPH. Is the question withdrawn?

Mr. FOSTER. Yes, I will withdraw it, and try to put it in such form as to obviate the objection.

Q. After El Mudo left were the mines abandoned, or what was their condition as to working?—A. After El Mudo left the mines were abandoned.

Q. Were they open to denouncement by the public?—A. They were open to denouncement and have been denounced since that.

Q. Have these different mines been worked by different parties since El Mudo left?—A. Several persons have worked there, the witness himself, Salazar, Eugenio Somera, Don Antonio Salazar.

Q. What has been the result of the working of the persons that he has named?

Mr. KENNEDY. One moment, please. Mr. Chairman, suppose the witness is asked what his opportunities have been for knowing what the results of these different operations are?

Mr. DOLPH. He may be asked if he knows, and, if so, to state upon the cross-examination; he may be examined as to the sources of his information.

By Mr. FOSTER :

Q. Ask him if he knows what the result of the working of the mines by the persons named has been.—A. They all lost everything that they put in, invested there.

Q. What is the present condition of La Abra mine, El Rosario, El Cristo, La Luz, El Arrayan ?

Mr. KENNEDY. One moment please. Will it not be better and save trouble to ask the witness when he last saw these mines and what their condition was, instead of asking him what their condition is now; how does he know ?

Mr. DOLPH. I make the same suggestion I did before. The witness did not seem to comprehend, and it is a very common fault with witnesses, that portion of the question in which he was asked if he knew what the result of the work in the mines was, in the previous question put to him. I suggest that there can be no objection, at least the question may be asked witness, if he knows the present condition, and, if so, state what it is. Let the interpreter put the question to him so he will answer the first part first, and then the other can be answered subject to cross-examination.

By Mr. FOSTER :

Q. If he knows what is the present condition of the mines named, and, if so, what it is.—A. The Arrayan mine is good for nothing.

By Mr. DOLPH :

Q. Ask him if he knows what the present condition is.—A. He says he knows.

Q. Now let him state what the condition is.—A. The Arrayan is good for nothing, and he knows that because he worked in it and lost \$2,000. El Rosario is good for nothing—full of water. La Abra has been worked for the last four or five years by Don Ignacio Manjarres, who has put in \$50,000 or \$60,000, and lost all without taking out any metal at all.

Q. Ask him what Manjarres is engaged in doing at that mine now.—A. Digging a tunnel, or excavating a tunnel, to see whether he can find some veins.

Q. Is it in the digging of that tunnel that he has spent the most of his money that he refers to ?

Mr. KENNEDY. One moment; that is rather leading. Ask him how he has spent the most of the money.

By Mr. FOSTER :

Q. Well.—A. Digging the tunnel, of which there are 300 or 400 yards open.

Q. Already made ?—A. Already made.

Q. Well, La Luz ?—A. La Luz mine is abandoned.

Q. El Cristo ?—A. Also.

Q. Ask him if he knows Guadalupe Soto.—A. He knows him.

Q. When La Abra Company was engaged in working the mines at Tayoltita where did Guadalupe Soto live ?—A. In a little house outside the limits of the hacienda.

Q. Ask him where Guadalupe Soto was living when he made the visit to the hacienda three or four months after the September visit when he found that El Mudo had gone.—A. In the same place.

By Mr. DOLPH :

Q. Ask him if that was the house where he met Granger.—A. It was

the same house in which he saw Guadalupe Soto when Granger came to visit him.

By Mr. FOSTER :

Q. How long did Soto live in that house after El Mudo left ?—A. He can not say exactly how long, but it was some time. He remained there until there was no hope or expectation for the mine.

Q. But then what, "but then he left," did not he say ?—A. And then he left.

Q. That is, left Tayoltita ?—A. He left Tayoltita and went to live in San Dimas.

Q. During the time La Abra Company was engaged in working the mines where was the witness living ?

Mr. KENNEDY. He has already answered that.

The INTERPRETER. In San Dimas.

By Mr. FOSTER :

Q. And where was he employed ?—A. He was employed in El Baluarte mine with Mr. Rice.

Q. Who was Mr. Rice ?—A. He was superintendent of the Durango Mining Company.

Q. An American ?—A. American.

Q. Ask him if during that time he knows of any visits made by the superintendent of the La Abra Company to Mr. Rice.—A. Several visits made by the superintendents. One of the superintendents was called the general.

Q. What other superintendent ?—A. Another was called the colonel, with whom the witness went to Mazatlan on a visit.

Q. What other superintendent besides the general and colonel visited Mr. Rice ?—A. El Mudo.

Q. Where did they lodge when they came to visit Mr. Rice ?—A. In the same hacienda in which witness was.

Q. With Mr. Rice ?—A. With Mr. Rice.

Q. Did he hear them talking about the affairs of La Abra mine ?—A. He says that they spoke in English and he did not understand what they said, but Mr. Rice afterwards explained to him the subject of the conversation.

Q. What was it ?

Mr. KENNEDY. That I object to, if it please you, Mr. Chairman. That is hearsay upon hearsay.

Mr. DOLPH. Upon what principle, Mr. Foster, do you claim that it is competent ?

Mr. FOSTER. Upon the principle that the testimony submitted by claimant to the Commission has been full of hearsay from beginning to end—based upon it all through. I recognize the fact that in a court of justice it is not a proper question to be propounded to a witness; but I base my question upon the precedents that have been established by the claimant, and we want to try and rebut that testimony as far as we can. Besides, I do not understand that the committee are enforcing the strict rules of evidence in this hearing. They are exercising their judgment as to how far they ought to modify the rule in view of the character of the evidence which has been submitted to the Commission and upon which this award was rendered.

Mr. LINES. Mr. Chairman, if it is competent to prove that conversation at all, if the witness had understood it in English, then it seems to me competent to prove what was said immediately afterward. The translation was given by Mr. Rice immediately after the time when the

conversation was overheard. If it was competent for the witness to have testified, understanding the conversation, to what it was, it seems to me that it is equally competent for him to say what Mr. Rice told him at that time the conversation was. It is a part of the *res gestæ* of the conversation, if that is admissible at all.

Mr. DOLPH. There is a marked distinction between general report on a subject and hearsay statements of witnesses. Without saying that general report in regard to the condition or value of the property is competent (and I can not conceive upon what principle so much looseness was permitted in the testimony before the joint commission), I do not think anything would be gained in this case by allowing mere hearsay evidence; the question calls for statements of witnesses not so connected with one of the parties to the proceeding as to be in a position to bind the party by his statements, or to make their statements to all intents and purposes the statements of the party. As to the suggestion that the interpretation of the statement of agents made immediately, that they would be competent, I do not agree with counsel. The rule which admits the statement of agents is upon the theory that as they are made during the transaction of the business of the principals and relate to that business, they bind the principals; but in this case the interpreter was not an agent of the parties, not sworn as an interpreter, and therefore his statement would not come within the rule; would not be under the sanction of an oath. I will sustain the objection to the question.

By Mr. FOSTER:

Q. During the time that Castillo del Valle owned the mines at Tayoltita, does the witness know of any difficulty they had with the authorities or people of that vicinity?—A. There was no difficulty of any kind.

Q. Was there not a difficulty a number of years before they sold to La Abra Company; did not the Castillos have some difficulty some years before they sold the mines to the company?

Mr. KENNEDY. One moment. I object to that, Mr. Chairman, on the ground that at present there is no indication that it is relevant what difference del Valle or his grantors had with the Mexican Government before La Abra Company went down to Tayoltita.

Mr. DOLPH. What have you to say, General Foster, as to this objection?

Mr. FOSTER. I can state in general terms that Don Castillo del Valle, who sold these mines to La Abra Company, has testified before the commission somewhat as to the history of his occupation and working of the mines, and he states that the principal reason why he sold the mines was that he suffered such annoyances and interferences from the Mexican authorities that he could not prosecute his mining operations successfully or with satisfaction to himself. We will cite, if you desire to hear further, just what he did say on the subject, and my object now is to show that that was not his motive for selling the mines; that with the one exception which I am endeavoring just now to prove he received all due protection from the Government, and immediately previous to selling the mines that he was in peaceable possession and protected by the authorities. It is to rebut the testimony that del Valle has given before the commission.

Mr. KENNEDY. Del Valle was a Mexican who was the owner of property that afterwards was purchased by the La Abra Company. The issue before the commission and the issue practically here, is whether

the company voluntarily abandoned its property or was driven out. Now, it is entirely immaterial what the relations of del Valle may have been to his own Government. Suppose they were of the most troublesome and intolerable sort; that has no connection with the question of the relations of the La Abra Company to the Mexican Government; and besides, as del Valle has been examined, as appears from Mr. Foster's statement—

Mr. FOSTER. Will you allow me to interrupt you ?

Mr. KENNEDY. Certainly.

Mr. FOSTER. The ninth question of del Valle's deposition is—

Mr. KENNEDY. What page are you on ?

Mr. FOSTER. Page 284 of the last pamphlet.

9th. State whether, at the time of the death of your brother and you yourself were wounded, you were working the mines which you sold to La Abra Silver Mining Company, or David J. Garth and Thomas J. Bartholow for the said company; and, if so, state whether the principal inducement you had for selling the mines and leaving the district was the want of protection to your person and property by the Mexican authorities at that place.

Ans. That at the time of the occurrence referred to I was working some of the mines sold by me to Thomas J. Bartholow for La Abra Company and others I subsequently acquired. In fact, one of the principal reasons which induced me to sell was the want of protection experienced in those sparsely-populated places, and which are distant from the superior authorities of the State.

Mr. KENNEDY. Now, if it please you, Mr. Chairman, what Mr. Foster has just read shows that del Valle stated in his examination that a reason why he sold out was that the property was in a sparsely-populated district, which it was difficult for the General Government to protect, and which, in fact, was poorly protected. I question whether that ever was relevant, but it certainly is immaterial here, especially when the question put to this witness, who can not read del Valle's mind, involves the motive that induced del Valle to leave. The witness is asked here what was the fact in regard to the motive that induced del Valle to sell this property to the company ?

Mr. FOSTER. Let me read the fifteenth question also :

15th. State whether it is true that you were induced to sell the said mines at this low price principally because you thought that your life and property were not safe in the district of San Dimas, because the local authorities did not give you and other foreigners due protection on account of the depredations committed by the military authorities of the Republic, who with armed forces passed through Tayoltita and San Dimas during the war against the Maximilian empire ?

Ans. That in fact he was induced to sell the mines in question for the reason stated in the question.

Mr. KENNEDY. Mr. Chairman, that does not change the question, in my judgment.

Mr. FOSTER. No; it is only cumulative.

Mr. KENNEDY. There is one question, if I may be permitted to make the suggestion, that it would be admissible to ask this witness, and it is whether he was familiar during the time of del Valle's occupation and ownership of his mine with the protection that was or was not afforded by the General Government. I suppose Mr. Foster can ask the witness that and what the state of affairs in that region was in respect to the protection afforded by the General Government; but to ask the witness what induced del Valle—

Mr. FOSTER. I did not ask him that. You misapprehend my question. I remind counsel that we—

Mr. DOLPH. We are nearing the close of the last session of this Congress, and we all have other duties which require attention. I do not

think the question is a very important one. The stenographer will read the question.

The stenographer read the question as follows :

By Mr. FOSTER :

Q. Was there any difficulty a number of years before they sold to the La Abra Company; did not the Castillos have some difficulty some years before they sold the mine to the company?

The CHAIRMAN (having been absent during the discussion). We can take the answer and strike it out if necessary afterwards, if we find it not relevant or not admissible. You had decided, Mr. Dolph?

Mr. DOLPH. No, I had not decided, but I was about to say that the former proprietor and the party who sold the mine to the American Company was examined as a witness before the joint commission. He stated that one of the principal reasons, or his chief reason, for selling the mine, or selling it at so low a price, was the want of protection on the part of the Mexican Government. I can not conceive that that was a very material question before the commission or is very material here, but inasmuch as a part of this examination is for the purpose of allowing the Mexican Government to show if they can that this award was obtained by false testimony, I think this question is competent. I think this question competent to show that the statement made by del Valle was not correct.

The CHAIRMAN. I concur and the witness will proceed to answer. The stenographer will read the question again.

The stenographer read the question as follows :

By Mr. FOSTER :

R. Was there not a difficulty a number of years before they sold to La Abra Company; did not the Castillos have some difficulty some years before they sold the mine to the company?

A. He knows only of a difficulty about ten years before about a very simple matter.

By Mr. FOSTER :

Q. No; he did not say a very simple matter, did he?—A. He says a very simple matter, and the work was never interrupted, he says.

Q. At Tayoltiti?—A. At Tayoltita.

Q. Did del Valle have any difficulty at San Dimas with the authorities or people?—A. He says that he knows of a question between the Castillos and the authorities of San Dimas several years before the sale.

Q. Well, was it not some rising of the people, some *motin*, as they call it, or disturbance?—A. He says that there was a question of the the laborers against Castillo.

Q. Well, was there a *motin*, or disturbance?—A. He says that it ended in a kind of riot—a *motin*.

Q. Were there some persons killed in that riot?—A. There were some killed.

Q. How long was that before they sold to La Abra Company?—A. Some time about 1850, or a little afterwards, or before; he don't know; in the fifties.

Q. Did they have any disturbance there with the people or with the authorities at Tayoltita before he sold to La Abra Company?—A. There were no difficulties, and the work was not interrupted, and the work was always in running order.

Q. Going on?—A. Going on.

Q. Ask whether he knows or heard of any difficulties between La

Abra Company and the authorities or people at Tayoltita.—A. He has never seen or heard anything on that subject.

By Mr. DOLPH:

Q. Ask him if, when he went to Tayoltita to work in La Luz mine in partnership with Granger, there was any ore in piles upon the patio which had been brought down during the time La Abra Company was working the mines.

Mr. FOSTER. You mean the patio; that is, the patio of the hacienda?

By Mr. DOLPH:

Q. The patio of the hacienda?—A. He says that in the hacienda there was a pile of ore which still is there, and will stay there forever, because it is good for nothing.

By Mr. KENNEDY (to the interpreter):

Q. Will you ask the witness if that pile was the same size the last time he saw it as it was the first time?—A. He says that there is about five or six hundred cargas, and that nobody touches it, and that it is the same now as it was then.

Q. Ask him when he first noticed that pile of ore.

By the CHAIRMAN:

Q. First saw it; at what time?—A. When he went to work in the mine.

By Mr. KENNEDY:

Q. When was that?—A. He does not know exactly the year; but he has said it is between 1869 and 1871.

Q. Ask him whether he is sure that he never saw it before 1869.—A. He says he saw the pile for the first time when he went to work after the business had been abandoned by the company, but he can not say exactly the year.

By Mr. FOSTER:

Q. Whether it was before or after 1869?—A. Yes.

By Mr. KENNEDY:

Q. But he is sure that he never saw that pile until after La Abra Company had gone?—A. He never saw the pile when the company was there.

By Mr. FOSTER:

Q. Working?—A. Working.

By Mr. KENNEDY.

Q. Ask whether Santiago Granger was related in any way to Gaudaloupe Soto.—A. He says that Don Santiago Granger was in relation or held relations, he said, with the daughter of Soto's wife.

Q. Ask him when, if ever, Soto moved from that little house near the principal hacienda—the little house where the witness testified that he had once had an interview with Granger—to the principal hacienda.—A. He don't know; he did not see whether he has ever lived in the hacienda.

Q. Ask him if he means to say that he never saw Soto in the hacienda of La Abra Company as its occupant.—A. He never saw him living in the hacienda but outside, in his little house of which he has spoken.

Q. Ask the witness whether, when he testified as to the bad condition of the mines owned by del Valle at a time previous to their sale by del

Valle to the company, the fact that they were all full of water except La Luz had anything to do with the witness's opinion of their bad condition.

Mr. FOSTER. Allow me to suggest to you that he has only testified to one mine being full of water.

Mr. KENNEDY. No; he has testified as to a good many being full of water.

Mr. FOSTER. Well, we can find out by asking him.

Mr. KENNEDY. We will not go into that. I shall put the question so it will not raise the fact.

Q. Ask the witness what the condition of del Valle's mines was in regard to whether or not they were full of water at the time that del Valle sold them to the company.—A. The Rosario mine was full of water, and the little work that was done was from the level of the water to the surface.

By Mr. FOSTER:

Q. That is, they were working it above the water?—A. Above the water; there was some little work done.

By Mr. DOLPH:

Q. Now ask him as to the other mines which you named to the witness.—A. He says that the others were *en borra*.

Mr. FOSTER. He did not get your question.

By Mr. DOLPH:

Q. Ask him whether or not the other mines were full of water at the time they were sold.—A. The others had no water, only the Rosario.

By Mr. KENNEDY:

Q. Ask him to give the names of the mines that del Valle owned and sold to the company.—A. He does not know exactly how many mines were sold by Castillo to the company, but knows that El Rosario, El Arayan, and, he thinks, La Abra and El Cristo were. He does not know exactly, and does not know of any other mines.

Q. Ask him who owned La Abra mine at the time it was sold to the company.—A. He thinks that the owner was Don Castillo del Valle, who represented the mine for all purposes.

Q. Ask him whether he knows who owned it, and tell him that he is not answering my question.—A. He says that he does not know whether he was the owner, but that he never recognized any other person as the owner of the mine excepting Castillo.

Q. Ask him if he never—that is he, the witness—never recognized anybody but del Valle as the owner, or whether he means to say that del Valle never recognized anybody as the owner but himself.—A. He says that Don Juan Castillo del Valle appeared before every one as the owner of the mine and represented himself in that capacity at all times.

By Mr. FOSTER:

Q. Does he say Don Juan "represented himself"?—A. He says he represented himself as the owner of the whole.

By Mr. KENNEDY:

Q. Ask him whether del Valle ever told him, the witness, that he, del Valle, owned La Abra mine.—A. No.

Q. Ask him whether he knows how much the company gave for La Abra mine.—A. He says that he heard the sale was made for \$50,000.

Q. Ask him if he knows how much del Valle got for the other mines that we sold to the company.—A. He does not know.

Q. Ask him whether, if there had been no water in the Rosario mine, his idea of its value would have been changed.—A. He says that the taking out of the water would have made very little difference, because the water has been taken out subsequently by Somera and others.

By Mr. FOSTER :

Q. Well, give the name of another one ?—A. Salazar, who took out the water, and nevertheless lost everything he put in.

By Mr. KENNEDY :

Q. Tell him that he testified that about a year before del Valle sold his mines to the company the general opinion was that their value was not great, and ask him whether the fact that the Rosario at that time was full of water affected the general opinion.

Mr. FOSTER. I will have to interrupt you there to say that he did not give this common rumor as a fact existing the year before, but at the time of the sale.

By Mr. KENNEDY :

Q. Well, we will put it that way. I will modify the question. Ask the witness whether the fact that the Rosario mine was full of water at the time when in his testimony he said that the general opinion was that the property was in a bad condition ; whether the fact of the mine being full of water affected that general opinion, that is, whether it was an element in his judgment in the formation of that opinion.—A. He says that the fact of the existence of water in the Rosario mine was not an element or foundation for the general opinion that the mines were worth very little.

Q. Ask him whether—

Mr. FOSTER. He has not got through yet.

The INTERPRETER. And he says that the only thing which might have induced them to purchase those mines was that a little vein, about 50 or 60 cargas, was worked, which yielded good metal, and he says that that was the delusion under which the purchase was made.

By Mr. KENNEDY :

Q. Ask him what mine that little vein was in.—A. In La Luz mine.

Q. Ask him whether any of the ore which he was engaged in treating at any stage of its beneficiation, when he was working for del Valle, came from El Rosario.

The INTERPRETER. Whether some ore of the Rosario was worked ?

Q. Yes at that time ?—A. He says that he does not know exactly whether any ore of the Rosario mine was beneficiated or worked at that time.

Q. At the time when he was working for del Valle ?—A. Yes ; that he saw ore proceeding from different mines to be beneficiated in some other part of the hacienda.

By Mr. FOSTER :

Q. That is deposited ?—A. Yes ; but he was engaged in his own work inside of the hacienda and did not pay attention to the work done by others.

By Mr. KENNEDY :

Q. Ask him whether he intends to say that he does not know where the ore on which he was working at that time came from.—A. He does not know from which mine was taken the ore on which he was working.

Q. Ask him what quantity of silver in a general way del Valle ex

tracted from the ores during the time that he, witness, was working for del Valle.—A. He does not know.

Q. Ask him to tell precisely what he did in the process of extracting the silver; what was the precise work.—A. He explains it precisely, the operation. The ore is ground and then treated with quicksilver.

By Mr. FOSTER :

Q. In the patio?—A. In the patio; and the result of that operation, called *polvillo*, was given to him to take the silver out of that. It is a kind of refining operation, I suppose.

By Mr. KENNEDY :

Q. Ask him how much silver he took out, as near as he can state the quantity, while he was employed by del Valle?—A. He says he don't know, nor can he know.

By Mr. FOSTER :

Q. He answers the question, "How can I know," didn't he say?—A. He says it is impossible for him to know, because each piece of silver is given to the owner, and he does not know either the weight or the value of it.

By Mr. KENNEDY :

Q. Ask him to tell us how many bricks of silver a day, or a week, and about what the size of the bricks was that passed through his hands while he was working for del Valle.—A. He says that sometimes one brick is the result of one day's work and sometimes two days' work.

By the CHAIRMAN :

Q. Ask him what would be about the weight in ounces of a brick.—A. They vary from 6 pounds to 8 or 10 sometimes.

Q. Pounds or ounces?—A. Pounds.

Q. Was it every day during the month or a year that these bricks were obtained from the ores, or was it only during periods of time when you were taking up the beneficiated ore from the patio?—A. He says that it was not every day, but that they waited until these beneficiated ores were refined, and then sometimes there were intervals of three or four weeks.

By Mr. DOLPH :

Q. Ask him if the amount of ores beneficiated in a day or a week bore any relation to the amount of ores that were taken from the mine and brought to the patio during the same period.

By the CHAIRMAN :

Q. Allow me to suggest whether they beneficiated the ores brought out of the mines as rapidly as they were raised and transported to the patio?

Mr. KENNEDY. Will the chairman allow me to suggest that the witness has already testified that the ores were subjected to a process before they came to the patio at all.

The CHAIRMAN. A process, or merely cullled?

Mr. KENNEDY. No; to a process.

Mr. DOLPH. No; the witness has not made that statement, I think.

Mr. KENNEDY. Then I am mistaken.

Mr. DOLPH. As I understand the process, the ores are dug from the mine—rather, perhaps, separated from the rock which perhaps is not part of the vein—is then transported in *cargas* to the patio, and there beneficiated.

The CHAIRMAN. Assorted first.

Mr. DOLPH. Well, perhaps assorted; they are beneficiated—that is, ground and treated with quicksilver upon the patio, and the result obtained, which of course contains both silver and quicksilver; and I do not know what amount of other substance is then taken into the hacienda, and there treated by the witness. Now, my question is whether the amount beneficiated in a given day or week on the patio was the same as that mined during the same time and brought to the patio or bore any relation to it?

The INTERPRETER. I can not make him understand that question.

By Mr. DOLPH:

Q. Well, I will put another question. What was done with the ore when it was taken from the mine—first dug from the mine?—A. First it is broken in mortars; afterwards it is ground.

Q. Was it not first necessarily brought from the mine to the patio?—

A. The first thing is to take it from the mine and carry it to the patio.

Q. When it was brought to the patio, where was it stored or how was it placed?—A. On the ground. They threw it out on the ground.

Q. Now, was it beneficiated—that is, ground and treated with quicksilver—as fast as it was brought from the mine to the patio, or was it piled up in a heap and left to remain for a time?—A. He says that that depends upon the resources of the owner of the mine; that sometimes, when they had three or four cargass, it is beneficiated immediately. Sometimes they make a great operation there, and it takes several days to work the thing.

Q. Now, at the time he was at work for del Valle, state whether or not when he went there, there was any ore piled up on the patio waiting to be beneficiated.—A. There was no accumulation or pile when he went to work with del Valle.

Q. State whether or not there was any beneficiated ore awaiting to be refined.—A. There was an amount in the grinding and another being beneficiated.

Q. Who had been refining the ore for del Valle before he went there?—A. A man named Almeyda.

Q. Was he there when the witness went to work?—A. He was not there.

Q. Does he know how long he had been gone?—A. Fifteen or twenty days before.

Q. Ask him whether he knows if this ore that was in the mill being ground and this that had been ground was the result of fifteen or twenty days' grinding.—A. He does not know.

Q. How long did he work at refining for del Valle at that time?—A. He says that his way of working there was when there was something to be done he went there, and sometimes staid one week or two, according to the amount of materials which was given to him, and when he finished his work he went to his home, and then came back when there was more material ready to be worked by him.

Q. Ask him how long he would be at his home between the time when he worked for del Valle in the interval.—A. That he can not remember exactly, because he had no interest in remembering the particulars.

Q. Ask him to state in a general way what his recollection is about the time.

Mr. FOSTER. I do not think he quite understands your question.

By Mr. DOLPH:

Q. What I want to know is about what proportion of the time he was

engaged in refining this silver ore.—A. He says that the whole time that he worked with the gentleman did not exceed three or four months, with this interval; he says sometimes two weeks, sometimes three weeks working.

Q. Ask him if he was at Tayoltita at work for del Valle as much of the time as he was at home during this period of three months.—A. He was a longer time in the hacienda than in his home.

By Mr. KENNEDY:

Q. Ask him how he was paid.—A. He was paid \$6 a day in each one of these periods of work, and boarding too.

Q. Ask him whether he can tell us in a general way how many days pay he collected from del Valle during that three or four months.—A. He can not say the number of days for which he received pay.

Q. Ask him how far the mines from which the ore came were from the patio.—A. He says that El Rosario was the nearest and is about 3 miles, and that the other mines are farther distant; but adds that he is not authority in the matter of distances; that he does not know in reality anything about it.

Q. Ask him whether any of the ore that came into his hands in any shape was from El Rosario mine.—A. He thinks that the principal portion of it came from the Rosario mine, and it came from others, but most of it came from El Rosario.

Q. Ask him whether he has not testified that most of the ore came from La Luz mine.—A. He says that the way in which these accumulations of ores are made, they mingle the ores together coming from all the mines, and so it is impossible for him to say exactly which mine the ore came from.

Q. Ask him why he says most of it came from El Rosario.—A. And that he thought that most of the material on which he worked came from Rosario.

Q. Ask him how far La Luz mine was from the patio where he worked for del Valle.—A. He thinks very distant; more than 3 miles.

Q. Ask him whether he is sure that there was no selection made of the ores, or no pulverizing done at the mine; ask him, in other words, whether the ore was brought from La Luz or El Rosario to the patio exactly as taken out of the mine.

The INTERPRETER. The witness asks in which time; whether in the time of Castillo del Valle or some other time.

Q. We are talking all through the present examination of the time when the witness was employed by del Valle as a refiner.—A. He explains that they had two patios—one patio at the mine and one patio at the hacienda, and that the ore as dug out of the mine is subjected to a preliminary work there on the patio of the mine.

Q. That was my understanding of it.—A. And then brought to the patio of the hacienda, where the quicksilver was employed and the process of beneficiation was carried on.

Q. Ask the witness what made him say that the result of the operations while he was employed by del Valle was good.—A. He says that when he was there and working that he had a material which had been the result of the quintessence of all the material which had been accumulated there before, and for that reason gave good results.

By Mr. FOSTER:

Q. Let me ask, did he not say that that was the finishing of the good ores in the mine that he was working on?—A. He says that the ma-

terial that was given to him yielded or gave a good result, but that he does not know out of what a great amount of ore that material came.

Q. In other words, he said, whether it was a hundred cargas or not.—A. Yes; he can not state whether it was the result of a hundred cargas of ore, or more or less.

By Mr. KENNEDY:

Q. Ask him who succeeded him, if anybody, as refiner for del Valle?—A. Gregory Almeyda.

Q. Ask him how long that was before del Valle sold to the American company?—A. He says a long time before.

Q. Ask him if he can not say more definitely what time.—A. He says that he can not state.

Q. Tell him that he has already testified that he worked for del Valle up to a period within one year of the time that del Valle sold to the American company, and my question is how long before del Valle sold to the American company was the witness succeeded by Gregory Almeyda. I want to get out of the witness what part of that year the new refiner came into the hacienda.—A. He can not say. He says that he had no interest in knowing who succeeded him after he left, and that he can not say at which time or on which day the other came.

Q. Ask him how he knows that Almeyda came to del Valle's hacienda at all.—A. He says that Almeyda was living at Tayoltita, and that he knew that he had gone to work with Castillo del Valle, but he can not say when he began to work.

Q. Ask him whether he, the witness, went back from San Dimas to del Valle's place after leaving as refiner, and if he went back when it was, for any purpose.—A. He says that he has gone some times on a visit to that place—Tayoltita.

Q. Ask him how long after he left del Valle's employment was it when he made his first visit.—A. He says these questions bother him very much, because he can not take account of the days and of the time; he can not keep any account, he says, of these periods.

Q. Well, we want to help him. Ask him if he went back to del Valle's before La Abra company came to Tayoltita?—A. Yes.

Q. Ask him whether he saw at that visit Gregory Almeyda working for del Valle.—A. He says that Almeyda was there, but he can not say whether he was working as refiner; but he was there, bodily there.

Q. Ask him whether del Valle kept up his operations until he sold to La Abra Company.—A. He thinks he was working, not on a large scale.

Q. Ask him whether del Valle paid him, the witness, his wages.—A. Yes.

Q. Ask him whether he knows what del Valle's standing was as a man of means at the time that he sold out to La Abra Company.—A. He says that if he was not in good financial condition the appearances were that he was in that condition.

Q. Tell him that my question was not what the appearances were, but what his standing was in the community; that is, what people thought of him as a man of means.—A. The general opinion was that he was a man of means.

Q. Now, ask the witness whether he is sure that Santiago Granger sold the machinery which Dahlgren bought.

The INTERPRETER. Whether he is sure of that?

Q. Whether he is sure that it was Santiago Granger who sold to Dahlgren the machinery which Dahlgren took away from La Abra property.—A. He is sure.

By Mr. FOSTER:

Q. He says he thinks.—A. Yes, and that he himself told Granger now that he sold such things that might be needed in the future.

By Mr. KENNEDY:

Q. When was it that Granger sold the machinery to Dahlgren, with reference to the time when La Abra Company disappeared from Tayolita?

The INTERPRETER. At which date the sale took place?

Q. Yes; give the date as near as he can.—A. He says that the sale took place when he was there, between 1868 and 1871, which he has mentioned.

Q. Ask him whether he knows Cipriana Quiros.—A. He says he does.

Q. Ask him what position that gentleman held at the time of the sale.

The INTERPRETER. When the sale of what?

Q. Of the machinery to Dahlgren.—A. He says that Quiros was either judge or the first chief or prefect, but he was an authority.

Q. Ask him where the judge's headquarters were at the time.—A. In San Dimas.

Q. Ask him whether he does not know that Judge Quiros at that time claimed to have control of the machinery which La Abra Company had left as representative of the Mexican Government.—A. He does not know.

Q. Ask him whether he knows if Dahlgren went before that judge and obtained authority to take away the machinery or any part of it and to keep any part of it that he had previously taken.

The INTERPRETER. And got authority from Quiros?

Q. Yes.—A. He says that the sale was made by Santiago Granger on the ground the company owed him money out of his salary, and to re-imburse himself of that he sold the machinery.

Q. My question was—and if the chairman will allow me, I will ask the chairman to instruct the interpreter to tell the witness that when he can answer any question I put to him by yes or no he should do so.

Mr. DOLPH. I should decline to do that. I can not confine the witness to yes and no, but many a question could be answered by yes or no, which the witness ought to do.

Mr. KENNEDY. It is only to shorten the proceedings.

Mr. DOLPH. Let the question be put again.

Mr. KENNEDY. My question was, if the witness knows that Dahlgren went before Judge Quiros and obtained permission from the judge, as representative of the Mexican Government, to keep the machinery that Dahlgren had already taken, and to take machinery formerly belonging to La Abra Company on a lease. Now the witness, if the chairman will pardon me, can say whether he knows whether that transaction took place or not.

Mr. DOLPH. I shall not give the witness any instructions. Let the question be put to him as it is stated.

A. He does not know that.

By Mr. KENNEDY:

Q. Ask him whether he has read Dahlgren's testimony in this case.—

A. No.

Q. Ask him where he, the witness, was during the ten years that next preceded the sale of del Valle's mine to La Abra Company.—A. San Dimas.

Q. Ask the witness how it is that he can testify of his own knowledge, if he has testified of his own knowledge, that del Valle had no trouble at Tayoltita with the Mexican Government.—A. He says that he has been living in that locality and knowing everything about it during the sixty years of his life, and therefore knows all about it.

Q. Ask him whether he is sure that if del Valle had applied to the Mexican authorities for protection the witness would know of that application and the result of that application.—A. If he had made any application to the authorities he, the witness, would have known that precisely, because he was there.

Q. Does the witness say that he was at Tayoltita?

The INTERPRETER. He asks the question in which time, whether these ten years that you say, or any other time.

Q. Oh, I am talking of the ten years.—A. He says that all the time he has been in San Dimas; he has never moved from there.

Q. Ask him why he says that while he was at San Dimas such an application could not have been made by del Valle at Tayoltita to the Government without his knowing it.—A. He says because everything which passes reaches his knowledge on account of his position and his knowledge of all the people there.

Q. Ask him whether he ever heard a report about anything that afterwards turned out to be untrue.

The INTERPRETER. He asks in regard to which report do you refer.

Q. Tell him that the question is whether he ever heard anything reported from Tayoltita that afterwards turned out to be untrue.

Mr. DOLPH. Do you mean any matter?

Mr. KENNEDY. Any matter at all.

A. He says that the report which has reached him as to everybody sometimes proved to be true and sometimes erroneous or false.

By Mr. DOLPH:

Q. Ask him how far San Dimas is from Tayoltita.—A. Two hours and a half, riding on horseback.

By Mr. KENNEDY:

Q. Ask him how long he has known del Valle.—A. He says about thirty years ago. He says, "Ever since I was thirty years old."

Q. Ask him what del Valle's reputation is for truth and veracity.—A. He says that he is too smart, and when he can take advantage of something he will take it.

Q. Tell the witness that the question was not whether del Valle was smart or not but what his reputation is in that community for telling the truth.

Mr. DOLPH. That is a question that even the most intelligent witnesses generally disregard entirely, and undertake to answer by giving their own judgment about a person. I think it would be well to say, and I will take the liberty of doing it to the interpreter if there is no objection, that the reputation of a man for truth and veracity is what his neighbors say about his truthfulness or lack of truthfulness.—A. He says that the opinion which was had about del Valle was that he told the truth when most advantageous to him, and when not, he told a story, because he wanted to take advantage of everything.

By Mr. KENNEDY:

Q. Ask him whether he, the witness, would believe del Valle under oath.—A. He says that he can not say whether he would make a false oath or not.

By Mr. FOSTER:

Q. That is, "it would depend upon"—

A. Depend upon the nature of the transaction, and whether he had an interest in it or not.

By Mr. KENNEDY:

Q. Ask him whether, if del Valle stated he had trouble with the Mexican Government, and the witness knew nothing of the fact himself, whether the witness would believe del Valle if the statement were made under oath.—A. He is in doubt; he says that perhaps he would believe and perhaps not. He is not sure that he would tell the truth.

Q. Ask the witness at what time he was examined himself as a witness for the Mexican Government in this La Abra case; ask him for the date, as near as he can remember.—A. He says it was about the time in which the machinery was sold.

Q. Ask him if it was more or less than three years after the La Abra Company disappeared from Tayoltita.—A. Within three years.

Q. Whether it was more or less.—A. He says it would be in the neighborhood of three years.

Q. Ask him if he was sworn to tell the truth when he was subjected to that examination.—A. Yes.

Q. Ask him if he went before a judge, or was examined in a private office.—A. In the office of the judge.

Q. Ask him whether he knows what was done with his deposition.—A. No.

Q. Ask him whether he remembers signing his deposition.—A. He does not know how to sign his name, and somebody signed his mark for him. He does not remember who it was.

Q. Ask him if he remembers if the deposition was read over to him before his mark was made.—A. It was.

Q. Ask him whether he remembers what his examination was about.—A. In regard to the sale of the machinery and tools and to whom they were sold, and it was in an investigation made by the Mexican Government.

Q. Ask him whether he was told by the judge or any other officer of the Mexican Government that his deposition was to be used against the claim of the American Company before the Mixed Commission.—A. He was informed that his testimony was to be used by the Mexican Government to prove that the Mexican Government had not disposed of that machinery.

Q. Ask him whether he ever heard that his deposition was actually submitted to the Mixed Commission.—A. He does not know.

Q. Ask him whether he was ever examined again by the Mexican Government in regard to La Abra claim.—A. No.

Q. Ask him where he was living all the time from 1868 to 1878; ten years.—A. San Dimas.

Q. Ask him whether, if the Mexican Government had desired to examine him at any time during the period from 1868 to 1872, there would have been any difficulty in finding him.—A. No; because he was always there.

Q. Ask him when he first heard that he was to be examined in this proceeding.

The INTERPRETER. Now?

Q. Now.

The INTERPRETER. When he first heard?

Q. When he first was notified that he was to be examined in this proceeding.—A. Some eight or fifteen days before he left.

Q. Ask him how he was notified.—A. The chief authority of the district notified him.

Q. Ask him whether that official had any conversation in regard to the matters on which this witness was to be examined.—A. He says that the chief of the district only notified him that he had to give his testimony in Washington.

Q. Ask him whether any questions were put to him before he came here, by anybody, in regard to what he would testify to in this examination.

Mr. DOLPH. Before he came to Washington.

By Mr. KENNEDY:

Q. Before he came to Washington.—A. No.

Q. Ask him whether his former deposition was read to him.

Mr. FOSTER. Do you mean read to him before he left?

Mr. KENNEDY. Yes; read to him before he left.

Mr. FOSTER. Recently?

Mr. KENNEDY. Yes.—A. No.

Q. Ask him whether the Mexican official whom he has mentioned, or any Mexican official, reminded the witness of the fact that he had once before been examined in this matter.—A. No.

Q. Ask him whether, before he left Mexico to be examined here, he received any letter from anybody regarding his examination.—A. He says no, and, he adds, who could have done that to him when he had no relation here or acquaintance of any kind.

Q. Now, ask him whether, since he came to Washington, he has had any conversation with any person in regard to his testimony here; that is, in regard to the facts to which he could testify.—A. He says that nobody has spoken with him, and he can not speak if he wanted to. He says the first person with whom he has been able to speak is me, myself, here.

Mr. FOSTER. I understand him to say differently; that the only person he could talk with about it was me; ask him.

The INTERPRETER. He says now here with you and with me.

Mr. FOSTER. No; translate "El Señor Consul;" he means the minister.

By Mr. KENNEDY:

Q. Ask him when he first saw the Mexican minister after he (the witness) arrived in Washington.—A. The day on which he arrived.

Q. What day did he arrive?—A. Last Monday, the 21st.

Q. What did the minister say to him?—A. The minister said nothing to him, except to direct him to a boarding-house.

Q. Ask him whether that was the only time he saw the minister before this examination.—A. Yes; he has seen the minister several times afterwards.

Q. When did he see the minister for the second time?—A. He has seen the minister after that two or three times, he says.

Q. Ask him whether there was any conversation between the minister and the witness as to the matters on which the witness has been or was to be examined.—A. The minister only told him that he had to go to the committee room and give his testimony.

Q. Ask him whether the minister asked him any questions as to mat-

ters of fact on which he has been examined.—A. The minister only told him that he had to depose the truth about what he knows.

Q. Was anything said to the witness in regard to what he did know?

A. No.

Q. Did the minister say anything to the witness in regard to the witness's previous examination in this case?—A. No.

Q. Ask the witness whether he knows of any reason why his previous deposition was not submitted to the Mixed Commission.—A. He does not know whether it was submitted or not.

Q. Ask him whether, if he is assured that it is a fact that the deposition was not submitted to the Commission, he knows of any reason for such non-submission.—A. No; he does not know any reason, because he does not know whether his deposition was to be used there or to be used in Durango for some local purposes of investigation.

Q. Then ask the witness why he testified that he was informed that his deposition was to be used in rebutting the claim of La Abra company against the Mexican Government before the Mixed Commission.

Mr. FOSTER. Wait a moment. He is putting into the witness's mouth facts which I do not understand he has declared.

By Mr. KENNEDY:

Q. Well, I will withdraw the question, and will now ask him whether he was informed at the time when his original deposition was made that it was to be used on behalf of the Mexican Government in the controversy regarding the claim of La Abra Company against the Mexican Government before the Mixed Commission.—A. He says that he does not know whether his testimony was to be used before the Mixed Commission in defense of Mexico against the claims of La Abra Company; that his recollection is that he was examined about the sale of the machinery and the tools which he has spoken of, and that is all that he remembers.

Q. Ask him whether he says now that no officer of the Mexican Government informed him at the time that the original deposition was taken that it was to be used in rebutting the claim of La Abra Company against the Mexican Government.—A. No.

Q. That is, that no officer told him?—A. That no officer told him.

Q. Ask the witness if he can tell us more precisely what he meant by saying that in 1867 the company was almost gone, or on its last legs, or words to that effect.

Mr. FOSTER. Will the stenographer please read the question?
(The stenographer read the question.)

Mr. FOSTER. My understanding is that he did not make that declaration, but that when he went to Tayoltita that was the common report there, or that was what he learned there. He does not make that declaration of his own knowledge.

Mr. KENNEDY. Well, it will waste time to go back.

Mr. FOSTER. Well, I object to putting language into his mouth—words that he did not use—and, therefore, I object to the question in its present form.

Mr. DOLPH. I think he stated that at the time he visited the company—what was the language you used?

Mr. KENNEDY. That the company was about gone.

Mr. FOSTER. "Paralyzed" was the word he used.

Mr. DOLPH. That the company was about closed out, or paralyzed, or something like that. We had better let the question be answered.

Mr. KENNEDY. You see, if he did not say that, it will appear on the record.

Mr. FOSTER. Well, that does not necessarily follow, because the witness is not accustomed to this process of cross-examination, and may accept statements that are made to him without due consideration.

Mr. KENNEDY. Will the stenographer please read the question?

The stenographer read the question, as follows:

Q. Ask the witness if he can tell us more precisely what he meant by saying that in 1867 the company was almost gone, or on its last legs, or words to that effect.

A. He says that he meant to say there was no money; there was a general talking that the company did not provide the necessary funds to run their business, and the whole thing was paralyzed.

Q. Ask him whether at that time the company was putting up machinery.—A. He says that the machinery was there in running order, and that when Granger entered into relations with him the business was expiring.

Q. Ask him whether he is sure that that was in 1867.—A. About that time; not sure exactly.

Q. Ask him whether the company's stamp mill was running and the company was crushing and beneficiating ore.—A. The mill had stopped; did not run.

Q. Ask him whether he can remember the month of the year 1867 by any association of ideas, like the weather, or the journey he took from San Dinias, anything that can help him to locate the time a little more definitely.—A. He asks when.

Q. At the time when he says the company was almost gone.—A. September, or October, or perhaps November.

Q. Ask him whether he ever saw the company's stamp-mill running?—A. No.

Q. Ask him how he knows, then, that the stamp-mill had stopped running.—A. He says that when the mill is running it makes a tremendous noise, and he never heard such a noise.

Q. Ask him whether he ever heard the noise of the mill running at all.—A. No.

Q. Ask him, then, why he said just now that he could tell whether the mill was running by the noise it made or not.—A. Because he has seen several other mills of the same kind.

Mr. FOSTER. That is he never heard that particular mill, I suppose.

By Mr. KENNEDY:

Q. That is all right; his answer is down. Ask him whether he knows when the company's machinery was actually in running order.—A. He says that the machinery of the company was actually running, but for a very short time.

Q. Ask him when the company's machinery was actually running.—A. He says that about one month or two before he arrived.

Q. Ask him whether, when he says "about a month or two before he arrived," he means that visit to which he alluded when he said that the company was about gone or on its last legs.

Mr. FOSTER. Paralyzed.

A. He says that this one month or two of which he speaks was before the time in which he says the company was on its last legs, and he adds that he did not hear any other thing from all the people there; that they did not receive any funds, and they were complaining of the scarcity of resources.

Q. Ask him whether the company ever beneficiated any ore at its mills before this visit of which we are speaking.—A. He heard some ore had been beneficiated, especially from El Cristo mine.

Q. Now ask him, please, how he obtained title to the interest that he had, whatever it was, in the mine La Luz.—He says that the mine was denounced by Mr. Granger.

Q. Ask him whether he bought an interest from Granger.—A. His permission; his consent only.

Q. Ask him what he meant when he testified that he worked La Luz mine part of the time as proprietor.—A. He says Granger gave him a share in the proceeds of the mine, provided he would work it and contribute his skill as a miner.

Q. Ask him whether there was any arrangement between him and Granger at the time Granger denounced the mine.—A. This arrangement was made at the time of the denouncement of the mine.

Q. Ask him for the date, as near as he remembers it, of Granger's denunciation of the mine.—A. He does not remember. He says the time which he was working there was contemporary with that.

TESTIMONY OF EUGENIO SOMERO.

EUGENIO SOMERO, sworn and examined.

By Mr. FOSTER (to the interpreter):

Q. Ask him to give his name, age, residence, occupation.—A. His name is Eugenio Somero; forty-seven years old; residence, San Dimas; occupation, miner.

Q. Ask him to state where he was born.—A. In Ignacio, State of Sinaloa.

Q. How far is San Ignacio from San Dimas?—A. One day and a half.

Q. Where has he spent his life?—A. In the mineral district of San Dimas and La Puerta and Tayoltita.

Q. How far is La Puerta from San Dimas?—A. Three hours.

Q. And from La Puerta to Tayoltita?—A. Two hours.

Q. What occupation he has been engaged in during his life.—A. As a miner.

Q. And nothing else.—A. Very seldom; some small commercial operations.

Q. At what age did he commence work as a miner?—A. Since he was ten or twelve years of age.

Q. What was his father's occupation?—A. Miner.

Q. At the time he was ten or twelve years of age what was his father's occupation?—A. Miner.

Q. In what capacity?—A. His father was the owner of the hacienda La Puerta.

Q. In what occupation was he engaged in the mines at ten and twelve years of age?—A. He says that he began with his father taking out mineral and ores, picking up and assorting as a boy.

Q. In what particular occupation as a miner has he engaged from that time to the present?—A. He says that he is only acquainted with assorting the metals and purely selecting and collecting the ores.

Q. He has stated that he was not an assayer, did he not?—A. Not an assayer and refiner.

Q. Has he been a proprietor of any mines, working mines on his own account?—A. Yes; he has worked sometimes on his own account and as proprietor of mines.

Q. For how long a period of his life?—A. He has been working mines of his own since 1883.

Q. Is he familiar with Tayoltita, and what is the extent of his familiarity?—A. He is familiar.

Q. From what period of time?—A. Since he was a young man.

Q. What part of his life has he lived in Tayoltita?—A. He has lived in Tayoltita permanently ever since 1880, with the exception of a few months he has lived in San Dimas, and before that year he has gone often there.

Q. Did he pass any portion of his time at Tayoltita during the time La Abra Mining Company was engaged in mining operations there?—A. Yes.

Q. Ask him to state when and how much time?—A. In 1866 and 1867, but not a continuous time—with interruptions.

Q. How long a period did he remain there at any one time?—A. More or less, ten or eleven months in the two years.

Q. Is he familiar with the character of the mining operations of La Abra?

The INTERPRETER. He asks whether of the company or the mine?

Q. The character of the mineral that was taken from the mines—any of the mines belonging to La Abra Company?—A. Yes, sir.

Q. During the time La Abra Company was in possession of the mines; that is, 1866 and 1867, I mean?—A. He says that he knows that they were poor enough.

Q. What was the general report in Tayoltita as to the results of the operations of La Abra Company?

Mr. KENNEDY. One moment; that is taken subject to the same objection that we made before.

Mr. DOLPH. Yes; it is a little different question. I do not think there is as much reason for asking it as there was for the other question.

Mr. KENNEDY. "Results" is substituted for "condition."

Mr. DOLPH. It is the general report as to the general operations of this company. The other is the general report as to the value of the mines. One was admitted on the ground that it contradicted the statement made by del Valle, the former proprietor of the mine, before the Commission, as to the general report of the property before the purchase. This goes as to the result of the operations after the purchase and not in answer to the testimony taken by del Valle. That is the difference between the two questions.

Mr. FOSTER. Do you not think it is a proper question to ascertain what the report in that village was as to the status of the mining company in its mining operations, he having spent ten or eleven months of those two years in that place?

Mr. DOLPH. I do not think that as a rule general rumor or report is competent to show facts. That must be shown by the evidence of a witness who knows, or by the statements of parties who bind the party in litigation, but there may be other reasons upon which it may be admitted.

Mr. FOSTER. Well, he has already stated. We will leave it there.

Q. Ask him if he knows anything about the circumstances attending the abandonment of the mine by La Abra Company.

Mr. KENNEDY. One moment, please. The witness has already testified that he was at Tayoltita for ten months or so in the two years 1866 and 1867, and it is a matter of record that La Abra Company did not leave Tayoltita until the spring of 1868.

Mr. DOLPH. You had better put your suggestion in the form of an

objection so that it can be ruled upon. The stenographer will read the question.

The stenographer read the question, as follows :

Q. Ask him if he knows anything about the circumstances attending the abandonment of the mines by La Abra company.

Mr. DOLPH. There is no objection to that question.

Mr. FOSTER. It is well enough to bear in mind that he has spent all of his life in that vicinity, within a few miles.

Mr. DOLPH. I will bear that in mind, but even without that the witness could be asked if he knows anything about the matter.—A. He does not know.

By Mr. FOSTER :

Q. Where was he at the time of that abandonment?—A. He was with his father in the district of San Ignacio.

Q. How far is that from Tayoltita?—A. Eighteen hours' travel.

Q. When did he return to that region of San Dimas or Tayoltita ; after he went to his father's home when did he return to that mining district?—A. He returned from that place, San Ignacio, in January 1872.

Q. When did he go to Tayoltita after that?—A. After, shortly afterwards.

Q. "He commenced" what?—A. He commenced to go and come back.

Q. From San Dimas?—A. From San Dimas to Tayoltita.

Mr. DOLPH. That is to say, he frequently visited. Ask him if that is what he means to say.

A. Yes, frequently ; he had a small business.

By Mr. FOSTER :

Q. That is, he went there to transact little matters of business?—A. Yes.

Q. What was the condition at that time of the mines which belonged to La Abra Company?

Mr. KENNEDY. One moment, please. By way of objection, I want to suggest that it would be better to ask the witness whether he made any examination of the mines of the company before you ask him what the condition of them was.

Mr. FOSTER. Well, I will change it to conform to your suggestion by asking him if he knows the condition of the mines at that time.

Mr. DOLPH. You mean the time when he visited after returning to San Dimas?

Mr. FOSTER. And making these frequent visits back and forth, if he knows the condition at that time.

Mr. KENNEDY. My objection is that a witness like this is so apt to confound what he hears with what he knows, and it seems to me the examination would be of much more service to the committee if before the witness were asked what is the condition of the mines he should be asked what he ascertained of their condition.

Mr. FOSTER. Well, we have modified the question and asked him if he knows the condition of the mine at that time.

Mr. KENNEDY. My objection is that you ought to ask him whether he ascertained anything of the condition of the mines of La Abra Company.

Mr. LINES. That is proper cross-examination.

Mr. DOLPH. I have ruled substantially on the same matter before.

The witness may be asked if he knows what the condition of the mine was after his return from San Dimas on his visit to Tayoltita; and, if so, he can state, leaving the more particular examination to cross-examination if necessary.

Mr. KENNEDY. The mines certainly ought to be designated to the witness.

Mr. FOSTER. The mines that belong to La Abra Company.

Mr. KENNEDY. Yes; but you have not shown that the witness knows what mines did belong to La Abra Company. I know how it would be in a court, Mr. Foster.

Mr. DOLPH. Well, the question has been ruled upon and we must get along.

Mr. FOSTER. Will the stenographer please read the question?

The stenographer read the question, as follows:

Q. Well, I will change it to conform to your suggestion by asking him if he knows the condition of the mines at that time.

A. He is well acquainted with the condition of the mines of the party ever since 1872.

Q. But I want to know what the condition was at the time when he returned to San Dimas and made these frequent visits about 1872?—A. Yes, he knows the condition.

Q. What was the condition of the mines?—A. Abandoned.

Q. Can he name any of those mines that were abandoned?—A. He says he has never seen the title papers of the company, but he knows by general report that the mines were La Luz, El Rosario, Arayan, La Abra, and El Cristo, Sauce.

By Mr. DOLPH:

Q. Ask him what he was doing at Tayoltita in 1866 and 1867 when he was there.—A. He was engaged in commercial business on a small scale.

Q. Ask him if he then knew the representatives of La Abra Company there.—A. Yes.

Q. Ask him who they were.—A. A general named Bartholow and another gentleman who was called the Colonel, but he does not know the name.

Q. Ask him if he knows what mines of the company were working at that time and what they were doing there.—A. They were working El Cristo and La Luz mines.

Q. Ask him who was in possession of those mines, if any one, in 1872, after he returned to San Dimas when he has visited Tayoltita.—A. He says that the mines were abandoned, and that the only one who exercised a certain kind of superintendency was Don Santiago Granger, and the mines were in complete abandonment.

Q. Were there any mining operations going on then?—A. No.

Q. Any property there in the hacienda belonging to the company?—A. He says that the company had there the hacienda with what had been left of the machinery. No work was done.

By Mr. FOSTER:

Q. Being in an abandoned state?—A. Being in an abandoned state; yes.

By Mr. DOLPH:

Q. Ask him if there was any ore on the patio.—A. There was an accumulation of ore there still.

Q. Still there?—A. Yes.

Q. Well, were any of the mines being worked then by any persons in 1872 or 1873, along that period?—A. He says from 1872 to 1873 a gentleman named Mr. Jones worked there in the mine of La Laz.

By Mr. FOSTER:

Q. He means this witness, does he not?—A. Yes.

Q. Did the witness take any interest in any of the mines about that time; that is, take possession of any of them?—A. No.

Q. When was the first time that he became interested there in mining?—A. In 1875. He says he began in the very latter part of 1874, but that in 1875 was his work.

Q. What interest did he have at that time, and in what mine?—A. In the Rosario mine, as owner.

Q. Did he denounce the mine?—A. He denounced the mine.

Q. What was the result of his working of the mine?—A. He lost \$2,000.

Q. How long was he engaged in working the Rosario?—A. Seven or eight months.

Q. What did he do with it; sell it or abandon it?—A. Abandoned it.

Q. When did he afterwards become interested in mining operations there?—A. He has been always interested in mining operations; not in that mine but others.

Q. In Tayoltita?—A. In Tayoltita.

Q. What others?—A. In several mines. He says in some of them without having any right to do so; without having any title.

By Mr. FOSTER:

Q. That is, they were idle, and he went into them without denouncing them?—A. Yes; he denounced several mines. Sometimes he denounced old mines and abandoned them when he saw that they did not give any result.

Q. Were any of them the mines that he has named of La Abra Company?—A. No.

Q. In what mining operation was he occupied in about the year 1881 or 1882?—A. In Tayoltita; engaged in working one mine belonging to him named Reliz.

Q. Did he ever occupy the principal hacienda which formerly belonged to La Abra Mining Company?—A. Yes; ever since 1883, from 1883 to date.

Q. What was the condition of the hacienda when he took possession of it?—A. He says it was all abandoned; there was only standing a ten-stamp mill, and there were some tools.

Q. Tools or machinery?—A. He says machinery to grind the ores.

Q. He used the word, literally translated, "iron," did he not?—A. Irons.

Q. Are they large or small pieces?—A. They are very large.

Q. Two hundred pounds and upwards?—A. Two hundred pounds the lightest, he says.

Q. How did he get possession of that hacienda?—A. He denounced it in 1881.

Q. Was his denunciation accepted by the Government?—A. The Government did not accept the denunciation, and he went away.

Q. When he returned in 1883 how did he get possession?—A. He denounced it again.

Q. Did the Government admit that denunciation?—A. He says that the reason why the denunciation was not admitted was because there

was in the Congress of the Union pending some bill or some legislation about denunciation of estates which had been in operation before, and that upon consultation with a lawyer there he was allowed to go in the property and raise what he could to continue work; and this is the condition in which things are at present.

Q. What operations has he carried on in that hacienda since that time to the present?—A. He made repairs in two of these stamp mills and has been beneficiating the ore of his own mine.

Q. Did he make any use of the materials placed in the hacienda by La Abra Company?—A. No; he has not made any use of it.

Q. What advantage was it for him to take the hacienda, then?—A. He says that the only advantage that he found was to use some—he speaks of the water—hydraulic work that had been in that estate two or three hundred years.

Q. Does he know whether any of these mines that belonged to La Abra Company had been worked at any other times than those stated by him, since they were abandoned by La Abra Company?—A. He says La Abra mine has been worked and is now being worked by others, and that a gentleman named Manjarres is working La Abra, and is digging there a tunnel.

Q. Does he know what results he is getting from his working of the mine?—A. No, sir.

Q. Have any other mines been worked since 1874 up to this time belonging to La Abra Company?—A. He says the El Sancé mine has been worked by somebody in the last four or five months. He says he does not know anything about this of his own knowledge, but by general report.

Q. What is the present condition of the mines that formerly belonged to La Abra Company; are they being worked or not?—A. The only one of these mines which is now worked is La Abra, by that gentleman named Manjarres.

By Mr. DOLPH:

Q. Is there any work being done on La Abra except the running of the tunnel into the mountain with the expectation of finding a vein?—A. No; nothing else.

Q. What does he know of efforts that have been made by other parties to work any of the mines belonging to La Abra Company?—A. He says the only work done is sometimes a man comes there and takes four or five cargass of ores, and tries to see what he can do with them, and then abandons it and goes away.

Q. Did any of the men ever bring any of the ores to him to reduce, or did he have any interest in any of the ores?—A. He don't understand the question. I do not understand it much, either.

Q. Has he had any interest in any of the operations of persons who have taken possession of these mines and taken out a certain quantity of ore and reduced it?—A. On two occasions he had an interest with these men who have come there to work.

Q. State what these operations were—the result of them.—A. In these two operations he lost.

Q. How much ore did they take out of the mines—what mines and how much ore?—A. From La Abra he took 80 cargass of ore.

Q. What was the result of its beneficiating?—A. He lost \$300.

Q. What was the other?—A. El Cristo mine.

Q. What was the quantity?—A. About 20 cargass.

Q. What was the result of beneficiating that?—A. He lost \$40.

Q. How long has he been acquainted with the mines of the Tayoltita district?—A. He says he has had thorough acquaintance with these mines since he was seventeen years old.

Q. What has been the history of the mining operations of the Tayoltita district in that time as to the success of the mining operations?—A. They have not yielded even one dollar, he says.

Q. Did not Castillo del Valle have some success in mining?—A. Very little, except by the sale.

Q. What sale does he refer to?—A. The sale which he made to the American Company.

Adjourned until to-morrow, Friday, January 25, 1889, at 11 o'clock a. m.

THE SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., January 25, 1889.

The subcommittee met pursuant to adjournment. Present: Senator Dolph, chairman; Hon. John W. Foster and Robert B. Lienes, esq., representing the Government of Mexico; and Crammond Kennedy, esq., of counsel for La Abra Mining Company.

EXAMINATION OF EUGENIO SOMERA—Continued.

[Through sworn interpreter, José Ignacio Rodríguez.]

Mr. KENNEDY. Mr. Chairman, before proceeding with the examination of this witness I desire to say that counsel for La Abra Company will make a response to the demand of counsel for the Mexican Government for books and papers at the next meeting of the committee, and to explain the delay I should like to add that the demand came to Shellabarger & Wilson, when Judge Shellabarger was greatly afflicted with sickness in his family, and it is only within a day or two that he has been able to give attention to the matter.

By Mr. KENNEDY:

Q. Ask the witness how he was employed during the ten months in 1866 and 1867, when he was at Tayoltita.—A. In commercial business, connected with matters of commerce.

Q. Ask him whether he ever was in La Abra mine.

The INTERPRETER. He asks whether in those ten months of 1866 and 1867.

Mr. KENNEDY. Yes, in that time.

A. He was not at that time.

Q. Ask him if he ever during that time was in La Luz.—A. Yes.

Q. Ask him if he was ever in El Cristo.—A. Also.

Q. The same question in regard to El Arrayan.—A. No.

Q. Ask him whether he made any examination of the ore of La Luz when he was in that mine.—A. He only saw the ore taken from that mine.

Q. Ask him whether he can assay.—A. He can.

Q. Ask him what experience he has had in assaying.—A. He has had much practice in these matters.

Mr. FOSTER. And some in assaying, did he not say?

Mr. KENNEDY. The question was in regard to assaying.

Q. Ask him when he was last in La Abra mine.—A. Last month; the time he left there.

Q. Ask him to describe the tunnel that he has testified was in progress of construction in that mine.—A. They are making a tunnel in the direction from west to east, following the vein. There are already made about 200 meters. He explains that the tunnel runs about 200 meters in that direction, and there are branches to the left and to the right of about the same length.

Q. Ask him whether all of this tunnel is on La Abra mine property.—A. All.

Q. What has been the expense of tunneling operations up to date?—A. He does not know exactly, but he thinks it is not less than \$50,000 or \$60,000.

Q. Ask him whether the proprietor, if it is the proprietor that is making the tunnel, has been taking out any ore for beneficiation.—A. Not even an ounce.

Q. Ask him to tell us again the name of his own mine.—A. Tecolota.

Q. How far is that from La Abra mine?—A. Four hours of journey.

Q. How long has he owned that mine?—A. Ever since 1883.

Q. How long has he worked it?—A. He has worked it from 1883 to 1887.

Q. What methods does he employ; the old-fashioned or modern machine?—A. The old-fashioned system or methods.

Q. Ask him what the result of his experience has been financially.—A. He has not lost in those operations; he has not sustained any loss.

Mr. FOSTER. He refers to the Tecolota.

The INTERPRETER. Yes; to the Tecolota.

Q. Ask him whether he has made any profits.—A. He says he has made profit, but he has invested those profits in the same mine.

Q. Ask him what reason he has for testifying, as I understood he did testify on his direct examination, that when he was at Tayoltita, in 1866 and 1867, the general reputation of the Tayoltita mines was poor enough.—A. He says he has seen with his own eyes the ores of the mine.

Q. Ask him whether he agreed himself with the alleged general bad reputation of the mines.—A. He agrees with that.

Q. The question is whether at that time he himself agreed?—A. Yes.

Q. Then ask him whether after 1866 and 1867 he became personally interested in working any of those mines. Get the fact out of him first. The question is whether after 1866 and 1867 he acquired any interest in operating any of the mines that had belonged to La Abra Company.—A. He didn't get any interest.

Mr. LINES. I do not think you asked the question Mr. Kennedy asked. He said in the mines of the company.

Mr. KENNEDY. In the mines of the company.

The INTERPRETER. Not in La Abra mine?

Mr. KENNEDY. No.

The INTERPRETER. He says he denounced the Rosario mine.

Q. Ask him why he denounced the Rosario mine if he believed that it was poor enough.—A. He says that he made that denunciation because Manjarrez, who has been a partner of Castillo del Valle, told him that they had made a mistake, and that there were some good veins to be worked in bonanza yet; and therefore for that reason he commenced to work and took the water out of the mine.

Q. Ask him who was meant by Manjarrez when he said "they had made a mistake."—A. He and his partner, Castillo del Valle.

Q. Ask him whether that Manjarrez is the same man that is now building the tunnel in La Abra.—A. The same.

Q. Ask him whether he (the witness) is acquainted with Castillo del Valle.—A. He is acquainted with him by sight only.

Q. Ask him whether del Valle is living.—A. He is dead.

Mr. KENNEDY. I was going to inquire, Mr. Chairman, whether the direct examination of this witness has been transcribed?

The CHAIRMAN. No; none of the examination of this witness.

Mr. KENNEDY. Ask him whether he testified in his direct examination that he was interested with some other persons in ore that those persons took from some mines that had belonged to La Abra Company other than El Rosario.

THE INTERPRETER. He does not remember whether the question was asked him yesterday.

Q. Well put it to him now.

The INTERPRETER. Belonging to the company, he says.

Mr. KENNEDY. That had belonged.

The INTERPRETER. He says he heard he was interested in 80 cargas of ore taken out of La Abra mine and 20 cargas from El Cristo mine.

Mr. FOSTER. As he said yesterday.

Mr. LINES. Do you mean to ask him if he was interested in ores which the company had extracted?

Mr. KENNEDY. No. He understands my question. I am finding no fault with his answers; they are satisfactory; I do not raise the question whether he said it yesterday. I think he is telling precisely what he said yesterday.

The CHAIRMAN. He has said what he said yesterday, precisely.

Mr. KENNEDY. I think so; that is my understanding of it.

Q. Ask him at what time, as nearly as he can remember, those cargas of ore were taken from La Abra and El Cristo.—A. In 1884.

Q. Ask him at what time he denounced El Rosario.—A. In 1875.

Q. Ask him to describe the condition of the mine at that time.—A. It was full of water and earth or dirt.

Q. Ask him whether he pumped the water out.—A. Yes.

Q. Ask him how long he mined in El Rosario.—A. Five or six months.

Q. Ask him about how much money he spent in his operations there.—A. Two thousand five hundred dollars, and obtained only \$500 of metal.

Q. Ask him what methods of beneficiation he used.—A. The quick-silver process used in the country.

Q. Ask him whether he has ever used stamps or a stamping-mill.—A. No; the stamp-mills are demolished now—thrown away.

Q. Ask him where he lived from 1868 to 1878.—A. From 1868 to 1871 in San Ignacio district, and afterwards in San Dimas.

Q. Ask him whether he was aware that La Abra Company had made a claim against the Mexican Government under the treaty providing for a mixed commission.—A. He says what he heard about that is so indefinite that he has not paid any attention to it.

Q. Ask him to tell what he heard when he was in San Dimas in 1871, and subsequent to that, on that subject.—A. He says when he was always in the mines, occupied in the business in San Dimas, the rumor that reached him was indefinite.

Q. Ask him whether he can not tell us a little more precisely what

the rumor was.—A. He says that he can not say anything more definite than what he has explained.

Q. Ask him whether he knows any of the witnesses that were examined on behalf of the Mexican Government in regard to that claim.—

A. He says he does not know because he has no knowledge of the claim.

Q. Ask him whether he was ever requested to submit to an examination as a witness for the Mexican Government in regard to that claim—

The INTERPRETER. In general?

Mr. KENNEDY. Yes, at that time.

A. He has not been requested to do so.

Q. Ask him when he was first notified that he would be examined in this proceeding.—A. On the 20th of December.

Q. Ask him how he was notified.—A. The chief notified him verbally.

Q. Does he mean by chief the political chief, or the judicial chief of the district?—A. The political chief of the district.

Q. Ask him whether he knows Mr. Torres, the witness who was examined yesterday.—A. Yes.

Q. How long has he known him?—A. Since the witness was born; he says his father was the godfather of the other gentleman.

Q. Ask him whether they came on from Mexico together.—A. They came on together.

Q. Ask him whether he has seen the Mexican minister in regard to this business.

Mr. FOSTER. That is, the minister in this city?

Mr. KENNEDY. Yes.

Mr. FOSTER. Are you sure that the witness understands it?

The INTERPRETER. Yes, he understands; he says he does not understand the second part of the question, and he asks what you mean by "in regard to the business?"

Mr. KENNEDY. Whether any conversation has occurred between the Mexican minister and the witness in regard to the subject-matter of this examination.—A. No.

Q. Ask him whether he has seen any attaché of the legation on this business.—A. No.

Q. Ask him how many times he has been at the minister's house or seen the minister since his arrival here.—A. Every day since he came.

Q. How many days are those?—A. Since Monday, the 21st.

Q. Ask him whether the other witness who is here and who has not yet been examined, was with himself and Mr. Torres in the journey from Mexico; that is, whether they all came together.—A. The three came together.

Q. Ask him whether the other two witnesses were also present with him during his conversations with the Mexican minister?—A. Yes.

Mr. KENNEDY. That is all.

The CHAIRMAN. Anything further, Mr. Foster?

By Mr. FOSTER:

Q. How long has this tunnel of La Abra mine been in course of construction?—A. He says, perhaps ten years, although he can not say exactly the number of years.

Q. Does he know whether any work had been done on that tunnel in previous years by previous owners of La Abra mine?—A. He says that the work on the tunnel was begun by Manjarrez, and none was done previous to that on that particular tunnel.

Q. Upon any other tunnel of La Abra mine?—A. In former years, several.

Q. What was the object had in view in running that tunnel or any of the tunnels? What was the object in running those tunnels?—A. He says that the purpose of the construction of those tunnels is to search some bonanza lower, deeper; because the mine in former times was very good, very rich, and is now demolished and covered up with earth.

Q. What did Manjarrez tell him in regard to his expectations of rich metal in the Rosario mine, of which conversation he has testified?—A. He says that Manjarrez told him that the bonanza was concealed behind some stones, some débris, and that by removing the débris there would be found good metal, and for that reason he was induced to take out the water and work there.

Q. Then he did work in that particular place?—A. Yes.

Q. With the result stated by him?—A. With the result stated before; he obtained only \$500, and lost \$2,000.

Q. Does he know anything of the results of the working of the mine by Manjarrez and Castillo del Valle when they jointly owned them?—A. He says that they did not lose by the operation, and perhaps obtained some benefit.

Mr. FOSTER. Some profit.

The INTERPRETER. Some profit.

Q. Does he know what was the condition of the mines at the time they sold to the American company?

Mr. KENNEDY. Before the witness answers, allow me one moment.

Mr. Chairman, there is an assumption there that Manjarrez sold to La Abra Company.

Mr. FOSTER. Manjarrez and Castillo del Valle. The records show that those two men were partners in the sale of the mine to La Abra Company.

Mr. KENNEDY. If so, all right.

A. He was not at the place when the sale was made.

Q. Are there any other persons now living in the San Dimas district who know the history and character of these Tayoltita mines of which he has been testifying?—A. There are many in San Dimas; he says there might be one hundred persons who could testify.

Mr. FOSTER. That is perhaps an explanation as to why the Mexican Government did not have these witnesses testify before the Commission. I have no further questions to ask.

By Mr. KENNEDY:

Q. Ask him what experience in mining Manjarrez has had.

The INTERPRETER. He asks to what time you refer.

Mr. KENNEDY. I mean in his whole life.

A. He says he is a practical miner.

Q. Ask him about how old Manjarrez is.—A. Seventy years.

Q. Ask him if he is living now.—A. He is living, and a strong workingman.

Q. Ask him if there is anybody in the San Dimas district better informed in regard to the past history and present condition of the Tayoltita mines than this man Manjarrez.—A. No.

Mr. KENNEDY. That is all.

The CHAIRMAN. Do you wish to ask any further questions, Mr. Foster?

Mr. FOSTER. None.

TESTIMONY OF RAMON HERMOSILLO.

RAMON HERMOSILLO, sworn and examined (through the sworn interpreter, José Ignacia Rodríguez).

By Mr. FOSTER:

Q. Let him state his name, age, residence, and occupation.—A. Ramon Hermosillo; forty-one years; merchant; residence, Durango.

Q. What place in Durango?—A. The city of Durango.

Q. Has he ever lived in San Dimas? If so, for what period of time?—A. He has lived in San Dimas for sixteen years.

Q. What is San Dimas, say, in relation to the mines? What position does it occupy politically?

Mr. KENNEDY. You may ask him a leading question there without any objection.

Mr. FOSTER. I was a little afraid of you.

The INTERPRETER. He does not understand.

Q. Is San Dimas the capital or chief town of that mining country?—

A. The chief town.

Q. What does it embrace? What is the extent of that district?—

A. It embraces a large number of mines; he can not name all of them.

Q. It embraces Tayoltita, does it?—A. Tayoltita is one of the municipalities of San Dimas.

Q. Then the chief officers of the district, both mining and political, live at San Dimas?—A. The political authorities reside in San Dimas.

Q. When did he first go to San Dimas and how long did he remain there?—A. He went there in 1872 and remained there until 1887.

Q. Is he well informed in regard to the mining operations of San Dimas and Tayoltita?—A. He can not say that he is perfectly well informed, but that he has sufficient information.

Q. Has he had business and personal relations with the miners of Tayoltita?—A. He has had personal relations with miners in Tayoltita, but no business.

Q. Is he acquainted with Francisco Torres?—A. Yes.

Q. What are his capacity and reputation as a miner?—A. Very good reputation.

Q. Is he acquainted with Eugenio Somera?—A. Yes.

Q. What are his reputation and capacity as a miner?—A. He says that he has known him always as a miner, and can not say of his knowledge what his capacity is as a miner.

Mr. KENNEDY. Mr. Chairman, I would like to ask how this is material. These two witnesses have not testified that they have made any examination of the ores of the mines owned by La Abra Company while the company was in operation, and hence it seems to me irrelevant to question this witness in regard to the status of these two men as experts.

Mr. FOSTER. In the first place, Mr. Somera has testified that he is acquainted with metals that were taken from the mines of La Abra Company. He has not tested them, but he has seen them and knows their value. They have testified to a number of other matters, as to the work of these mines since the company left, going to show the general value and character of the mines. We have on the stand now a merchant, and an intelligent man, who is acquainted with these persons, and has been living in that vicinity for years. I simply wanted to strengthen the force of their testimony before this committee, to whom

they are strangers, foreigners. It is not a very material question, but I thought I would ask it.

The CHAIRMAN. The testimony called for by this question may become material. It is testimony in rebuttal. It will only become material, I think, should the capacity and knowledge of the witness Somera be attacked by testimony of the defense. But as the ordinary and orderly method of taking testimony in courts of justice can hardly be followed in this hearing, the witness may answer the question.

Mr. FOSTER. I think you had better ask the question again.

Mr. KENNEDY. I would like to put on record this statement: That the witness Somera is a witness for the Mexican Government. He has already been examined directly and cross-examined. It appears that he never made any examinations of the ores of the mines belonging to La Abra while that company was in operation, and hence counsel submits, most respectfully, to the committee that the question is entirely out of place, even if it ever had been relevant.

The CHAIRMAN. The witness Somera testified to matters involving his opinion, and upon which an expert or witness having special knowledge on the subject could be allowed to speak. If no attempt is made to disprove his statements, as to his experience and qualifications, or to show by other witnesses that he lacked the knowledge which it was assumed he possessed upon the subject when this testimony was given, this testimony will be immaterial. The witness may answer the question.

Mr. FOSTER. I wish to add that one reason for asking the present witnesses now is that they have come a long way, and we do not desire to hold them over, in order to make use of them hereafter if the capacity of those witnesses as experts should be attacked. I simply take advantage of their being here now, and propose to dismiss them and let them go home.

The CHAIRMAN. That was implied in what I said in ruling upon the objection to the question. Now I will hear Mr. Kennedy.

Mr. KENNEDY. I have nothing further to add, Mr. Chairman.

The CHAIRMAN. I find, in looking over the testimony of yesterday, as it has been extended in regard to questions, and in regard to what I said in answer to objections of counsel, that the confusion arising from the interlocutory argument of counsel and the method of examining the witnesses by an interpreter, confused the stenographer; and, as I can say so now without offense, when an objection is made to a question, let it be stated as such in the usual legal form, and counsel on each side will be heard upon it; then when it is ruled upon, let us proceed with the examination. When an objection is made that is not vital to the testimony in this hearing, it would be better to proceed as rapidly as possible, as time is an element of importance, both to the counsel and the members of the committee, as well as to the witnesses.

The last question was repeated, as follows:

Q. What are his (Eugenia Somera's) capacity and reputation as a miner?

A. He says he has a very fair reputation as a miner.

Q. Does he know of the working of any of the mines of La Abra Company in Tayoltita by Torres and Somera since La Abra Company abandoned them?—A. Yes.

Q. What was the result of their working of the mines?—A. Well, bad for them.

Q. What has been the reputation of the mines owned by Castillo del Valle, and afterwards by La Abra Company, and worked by these men?

The INTERPRETER. He asks what time?

Mr. FOSTER. Let us hear what he knows of the reputation of them from that time to this.—A. He says that when these mines were worked by La Abra Company they had a very bad reputation, and that afterwards or subsequently to that very bad too, or worse.

Q. What was the result of the working of the mines by Castillo del Valle and Manjarrez?—A. In the beginning the mines gave good results, but there was one year or a little more before they sold the mines that they gave no results.

Q. What does he mean by no results?—A. They did not yield any profit.

Mr. FOSTER. I have no further questions.

The CHAIRMAN. Take the witness, Mr. Kennedy.

By Mr. KENNEDY:

Q. Ask him whether he heard the testimony of Mr. Torres in regard to the work that he did as a miner for Castillo del Valle during part of the year before Castillo del Valle sold the mines to La Abra Company.—A. He has heard the testimony, but he did not pay any attention and can not give any account of it.

Mr. FOSTER. That is, he says he was thinking about other things part of the time and did not remember with precision; was not that it?

The INTERPRETER. With precision; yes.

Q. Ask him what his reason is for stating so positively, as he has done, that for a year or more before del Valle sold his mines he made no profits in operating them.—A. He heard that thing said in San Dimas.

Q. Ask him whether he ever had any conversation on the subject with del Valle.—A. No.

Q. Ask him if he knew del Valle?—A. Yes.

Q. Ask him whether, if del Valle had ever told him that he was mining at a profit he would have believed it.—A. He says that in business matters he does not believe any one.

The INTERPRETER. I suppose he means implicitly.

Q. Ask him whether he ever was in La Abra mine.—A. No.

Q. Or La Luz?—A. No.

Q. Or any mine that ever belonged to La Abra Company.—A. No.

Q. Ask him whether Mr. Somera is an assayer of ores.—A. He says he knows practically how to assay.

Q. Ask him whether there is any educated assayer; that is, any man who makes a profession of assaying in San Dimas district.—A. Yes, there are.

Q. Ask him to give the names of some of the best known.—A. Don Daniel Burns and Alberto Linder, but he is not sure of the last name.

Q. Ask him whether any of these experts have assayed any of the ores of any of the mines that used to belong to La Abra.—A. He does not know.

Q. Ask him to name an assayer whom he would employ if he thought of purchasing a mine.—A. Don Daniel Burns.

Q. Ask him whether that gentleman is at San Dimas.—A. Yes, at San Dimas.

Q. Ask him whether that expert is well informed in regard to the mines of that mineral district.—A. He thinks that he is well informed.

Q. Ask him whether Don Daniel Burns has ever visited the Tayolita mines.—A. He has visited them.

Q. Ask him whether the witness knows Mr. Manjarrez.—A. Yes.

Q. Ask him what his opinion is of the experience and skill of Manjarrez in mining.—A. He thinks he is a man of great experience.

Q. Ask him whether he knows what assayer or expert Manjarrez employs.—A. No.

Mr. KENNEDY. That is all.

The CHAIRMAN (to Mr. Foster). Do you want to ask him any questions?

Mr. FOSTER. None.

The CHAIRMAN. The further hearing will now be continued subject to the call of the committee.

COMMITTEE ON FOREIGN RELATIONS,
UNITED STATES SENATE,
Washington, D. C., January 29, 1889.

The committee met pursuant to call. Present: Senator Dolph, Hon. John W. Foster, and Robert B. Lines, esq., counsel for the Mexican Government, and Crammond Kennedy, esq., of counsel for La Abra Silver Mining Company.

Mr. FOSTER. I desire to file in evidence a certified copy of a bill in equity in the supreme court of the District of Columbia, suit of Thomas W. Bartley and Frederick P. Stanton *vs.* La Abra Silver Mining Company *et al.*

Mr. KENNEDY. I would like to ask, Mr. Chairman, if it please you, what the relevancy of that bill is to this investigation?

Mr. FOSTER. The bill sets forth the relations which existed between the company and the representatives of the company in prosecuting the suit, Alonzo W. Adams and the attorneys whom Adams employed, and it sets forth the terms of the agreement made between Adams and the company for the prosecution of the company's claim. It further sets forth the details of the settlement had between Adams and the company in relation to the prosecution of the claim. To this bill is attached copies of those two agreements. The certificate of the court is—

I certify that the foregoing is a true copy of the bill on file in said court, and farther that the two exhibits herein referred to as A and C are missing from the files of said court.

One object in filing this record is to establish the fact of the existence of such agreements, the character as set forth in the bill of the agreements, and the fact that those copies of agreements have been withdrawn from the files of the court and we are not able to obtain them. I file it in advance of the answer which the counsel informed the committee would be made by them at this meeting, and it may lay the foundation for further requests on our part.

Mr. KENNEDY. Mr. Chairman, I do not see how the relation between La Abra Company and its counsel have anything to do with these proceedings. It does not seem to me that that is a subject into which this committee would care to enter. How those relations affect the questions between Mexico and the United States or how they can affect the conscience of the United States in regard to this claim of Mexico, that the money on hand should not be paid over to the claimants, it is very hard for me to see, and if I understand Mr. Foster the agreements which are attached to the bill as exhibits are not to be found. Am I correct in that, Mr. Foster?

Mr. FOSTER. It is stated that these two agreements, which are Exhibits A and C, have been withdrawn from the files and are not now in their proper place with the court.

Mr. KENNEDY. And copies of these agreements are not, of course, included in this statement you offer.

Mr. FOSTER. No; the bill sets forth the contents of those two agreements, but not in the words of the agreements. They file the agreements as exhibits for more detailed information.

Mr. KENNEDY. Well, we object to the introduction of the paper on that ground that it is irrelevant, immaterial, and incompetent.

Mr. DOLPH. I will not pass upon this question now, and if I am going to hear this witness this morning we must proceed.

Mr. FOSTER. Well, we want this certified copy laid before the committee.

Mr. DOLPH (to Mr. Kennedy). Do you object to the sufficiency of the certificate if the paper is otherwise competent testimony?

Mr. KENNEDY. I have no doubt when I examine the certificate I will find that satisfactory.

Mr. DOLPH. Then if there be no objection to the sufficiency of the certificate the paper will be received subject to its competency in other respects, being passed upon by the committee hereafter. It is quite possible that it may become material to show that a suit was commenced and what the allegations of the bill were. For the purpose of establishing the facts stated in the bill or proving the execution of the exhibits attached to the bill the paper would under any supposed circumstances be incompetent. The facts can not be so established, and proof that the exhibits are true copies of the originals can not be so made.

Mr. LINES. Mr. Chairman, in connection with that ruling permit me to say that the bill is, of course, in the ordinary form, sworn to by the persons who bring it. They were counsel of La Abra Mining Company before the Commission, and in that respect were agents of the company, so that unless it were shown that the allegations of fact in the bill were denied by the answer, which is not the case if I understand it, I think that even in that view—

Mr. DOLPH. The suit was brought by whom?

Mr. LINES. By Thomas W. Bartley and Mr. Stanton.

Mr. DOLPH. Who were they?

Mr. LINES. Counsel of La Abra Company.

Mr. FOSTER. Who appeared for the company before the Commission?

Mr. DOLPH. Brought in their own interest?

Mr. LINES. Brought in their own interest for their fees.

Mr. DOLPH. A statement made by counsel in their own interest I do not think would be competent to bind their former clients.

Mr. LINES. Well it is sworn, I say.

Mr. DOLPH. An *ex parte* sworn statement. I can not say what effect this committee may give to it, but it would not be competent testimony in a court of justice.

Mr. FOSTER. You will remember, Mr. Senator, that Mr. Garth was examined by the chairman in relation to the agreements, the assessments, that were made upon the company, and the disbursements received from Mexico, and these agreements, of which copies are filed here, are in the direction of the information already brought out.

Mr. DOLPH. I have no doubt but that the agreements might be competent testimony. The only suggestion I make is that as the case is now presented, the mere fact that they have been filed as exhibits to a bill, under oath, by the former attorneys of the La Abra Company would not make them testimony here; that the statements of these at-

torneys in a bill brought to enforce their own supposed rights as against other parties would not be binding as against the company that they formerly represented.

Mr. FOSTER. Is not this *prima facie* evidence sufficient to establish the existence of these agreements so that we can lay the foundation of our demand for the production of them.

Mr. DOLPH. No it would not be any evidence at all. It could only be introduced as competent proof to establish the contracts, or on the principle of estoppel as statements that have been made by the company or by parties so connected with them that they bound the company. La Abra Company is a party to this proceeding. If we are to apply the ordinary rules of evidence the company would be bound only by proof of the fact, or by a showing that they had admitted the fact, or that the statement offered in evidence had been made by some one so connected with the company as to be in effect the statement of the company or so as to estop them from denying it.

Mr. KENNEDY. Mr. Chairman, just one word, if you please. If I am not incorrectly informed, Mr. Stanton is alive, and if any allegation that Mr. Stanton has made in a suit against La Abra Company is material before the committee, Mr. Stanton should be summoned and examined.

Mr. DOLPH. That is a question as to the competency of evidence to establish the contracts when it is undertaken to establish them. It is not now a question whether they shall be established by primary or secondary evidence, but a question whether the mere fact that they had been attached to this bill in a suit which had been brought by the former attorney of La Abra Company is proof of the genuineness of the contract.

Mr. KENNEDY. I agree with the suggestion of the chairman that the objection lies deeper. The objection, as I stated it at first, was that any agreement between La Abra Company and its counsel was immaterial to the issue before this committee or to the controversy between the Mexican Government and the United States in respect to the funds on hand to the credit of La Abra award. I can see no reason why we should not inquire what Mr. Foster's relations are, what contract he has with the Mexican Government in connection with this proceeding, or what contract Mr. Lines has with Mr. Foster or with the Mexican Government. It seems to me the whole matter is foreign to the issue.

Mr. LINES. Just one word. We desire to establish the fact, when evidence may be admissible to that end and shall be offered, that there was a champertous contract between this company and its attorney.

Mr. KENNEDY. What attorney?

Mr. LINES. Alonzo W. Adams; and further we propose to show certain misconduct of that attorney under that contract. That, I take it, is an allegation which might go to the root of the whole proceeding as to the award in a moral point of view, etc.

The paper was ordered to be printed in the record, the objection to be considered hereafter. It is as follows:

The supreme court of the District of Columbia, the — day of —, A. D 1880.
Sitting in equity.

[Thomas W. Bartley & Frederic P. Stanton, plaintiffs, vs. (1) Alonzo W. Adams, (2) Sumner Stowe Ely, (3) La Abra Silver Mining Company, a corporation under the laws of New York, (4) William W. Boyce & (5) William M. Evarts, Secretary of State, defendants. 7340. Bill in equity.]

Plaintiffs say:

(1) That the plaintiff Frederic P. Stanton, is a citizen of the State of Virginia, and the plaintiff Thomas W. Bartley is a citizen of the District of Columbia.

(2) That the defendants Alonzo W. Adams and Sumner Stowe Ely are both citizens of the State of New York; and that La Abra Silver Mining Company is a corporation organized under the laws of the State of New York, having its office in the city of New York, and doing business there, and also doing some of its business in the District of Columbia, and having at this time property in said District and within the jurisdiction of this court; also that the defendant William W. Boyce is a citizen of Virginia, doing business in the District of Columbia, and the defendant William M. Everts is a citizen of the State of New York, but residing in the District of Columbia, and doing business as the United States Secretary of State.

(3) The plaintiffs were law partners engaged in the practice of the law in the District of Columbia, in the year 1869, on equal terms, sharing equally in the expenses, and entitled equally to the profits and fees in the business in which they engaged; and this partnership continued until October, 1870, when it was dissolved as to cases and business subsequently undertaken.

(4) That said defendant La Abra Silver Mining Company, in the year 1869, having a good and valid claim against the Government of Mexico and desiring to prosecute the same before the joint American and Mexican commission, established under the convention of July 4th, 1868, between the United States of America and the United States of Mexico, did, on the 9th day of December, 1869, together with certain of its trustees and stockholders, make and entered into an agreement in writing with the defendant Alonzo W. Adams, sealed with the corporate seal of said company and with the private seals of the other parties thereto, a copy of which agreement is hereto attached and made a part of this bill of complaint and, for identity, marked Exhibit A.

By virtue of said agreement the said company employed the defendant Adams to undertake the prosecution of said claim, and authorized him to employ counsel on behalf of the company to institute the necessary proceedings, and also authorized him to take or cause to be taken the requisite testimony to sustain the said claim, and to cause it to be legally and regularly prosecuted to final adjudication before said joint commission. And the expenses of the employment of counsel, and taking the testimony, and preparing and prosecuting the case, were by the terms of said agreement to be paid by the defendant Adams, with the exception that the said company agreed to advance, and did advance, to said Adams the sum of thirty-five hundred dollars as therein set forth and required. And for the said services of said Adams in the premises, and for the purposes thereof, the said company became obligated to pay to him, and thereby assigned to him, one equal third part of the money awarded for said claim by said commission, and paid to said company or to any officer or agent thereof; all of which will more fully appear by reference to said agreement, a copy whereof is hereto attached as aforesaid.

(5) Pursuant to said agreement the defendant Adams employed the plaintiffs and one Robert Rose and the defendant William W. Boyce as the counsel on behalf of the said company to institute the requisite proceedings before the said commission and prosecute the said claim to final adjudication, and for that purpose a contract in writing was made and entered into by the defendant Adams with the plaintiffs and the said Rose and Boyce on the 25th day of August, 1870, a copy of which is hereto attached and made a part of this bill, and for identity marked Exhibit B. This agreement although signed by the plaintiff Stanton alone, was an engagement of his law firm composed of both the plaintiffs, Bartley and Stanton, and was so understood at the time, and the case was, at the time, placed on the docket of that firm, and prosecuted by the firm with the other cases and business of the firm. And by the addition to the said last-mentioned agreement appearing in the said Exhibit B, it was further stipulated by the parties that the terms and conditions of the foregoing contract in reference to the claim of La Abra Silver Mining Company should be extended and made applicable to the following cases in which the defendant Adams had a like authority and interest as above, and all which cases were prosecuted in like manner before said commission by the plaintiffs with said other counsel, to wit, the cases of Daniel Green, Alfred A. Greer, James Tobin, William Blumhardt, Messrs. Hodapp Zuber, John Cole, Alfred Howell, Charles Bonttner, Francis F. Dana, and George & Lewis.

And by the said contract, shown in Exhibit B, duly signed and sealed by said defendant Adams and the plaintiffs and other parties thereto, the plaintiffs so associated aforesaid undertook to prosecute before said commission the said claim of La Abra Silver Mining Company, and also the claims of the said other parties so named in the contract as aforesaid as the attorneys for the said several claimants and also for said defendant Adams, in consideration of which the said Adams stipulated to pay and assign to plaintiffs, and did so assign to them and the counsel so associated with them, the one-third part of the amount agreed by the said company to be paid to him, the said Adams as aforesaid; that is to say, one-ninth of the award which may be made by the said commission to said La Abra Silver Mining Company, and also the same proportion which may be allowed in the said several other cases.

It was also further stipulated therein that if it should be necessary or desirable to employ other counsel to secure success in said cases, or either of them, the said at-

torneys so employed should pay the fees of such additional counsel out of the amount so agreed to be paid to them as aforesaid. Of course any such employment of additional counsel required at least the approval of the plaintiffs and their said associate counsel. But plaintiffs aver that no such necessity existed for the employment of such additional counsel, and that no additional counsel were employed in the said cases or either of them, with the consent and approval of plaintiffs, or either of their said associates in said contract; and the plaintiffs aver that they have always been ready and willing to allow or contribute to the payment of any expenses imposed upon them by the terms of the said contract; and they further aver that they went forward and prosecuted said several claims before said joint commission and fully and faithfully performed their duties and part of the said contract, and were successful in the final adjudications, as follows, to wit: In the case of La Abra Silver Mining Company an award was rendered in favor of the company for the amount of \$683,041.32 on the — day of — 1876 (including the interest to the date of the award), to be paid by Mexico to the said company. In the case of John Cole an award was recovered before the commission for \$71,109.38; in case of Daniel Green for \$16,649.31; and in the case of Alfred Harell for \$1,137.56; making in the aggregate \$771,937.57.

(6) Under the treaty aforesaid between the United States and Mexico the excess of awards made in favor of citizens of the United States were to be paid by annual installments of \$300,000 each; and three of said installments had been paid up to the 1st of February, 1879, when the proportion of the same due to La Abra Mining Company amounted to one hundred and forty-two thousand dollars, which was paid to the said company on the — day of —, 1879. Of this sum the said defendant Adams was entitled, under his said agreement with the said company, to an amount exceeding forty-seven thousand dollars. A fourth installment of said award was paid by Mexico to the United States on the 1st day of February, 1880, and of the proportion due therefrom to defendant La Abra Silver Mining Company nearly fifty thousand dollars is about to be paid to said company by the Secretary of State of the United States.

(7) The plaintiffs are informed and now charge that the defendants Adams and La Abra Mining Company have had some settlement between themselves as to the installments already paid on said company's award, and also as to those hereafter to be paid, but the plaintiffs are not informed of the particulars thereof, and the defendant Adams conceals the facts from plaintiffs and insists that he has received a very small sum from said company. However this may be, plaintiffs believe and charge that the set-offs claimed by the company against said Adams were for sums advanced by said company to him, or assumed to be paid by said company for the personal expenses of said Adams or for his personal obligations, and for which the plaintiffs were not and are not in any way responsible, either in whole or in part. But on this as a pretext the said Adams refuses to allow and pay the plaintiffs any part of the said first three installments already paid as aforesaid, of which his (the said Adams) part, out of which plaintiffs and their associates were entitled to their one-third, is over \$47,000. Plaintiffs further say that as to the expenses incurred by said Adams in taking rebutting testimony, of which they, by their agreement aforesaid of Aug. 25, 1870, were to pay their proportion, the items were fixed and settled by another agreement made on the 13th of Sept., 1878, between said defendants Adams and Ely and the plaintiffs: This agreement was presented to plaintiffs by defendant Ely and was signed by them on his representation that it was correct and true; and the plaintiffs are now ready and willing to abide by its terms, although they believe the charges therein to be excessive and unreasonable. This paper fixes the expenses of taking rebutting testimony at the sum of \$10,560, which, with some other small items, is chargeable against the plaintiffs and their associate counsel aforesaid to the extent of the one-third thereof. A copy of said last-mentioned agreement in the handwriting of the said Adams, and certified by him, is hereto attached, marked exhibit C, and made a part of this bill.

(8) The defendant Adams refuses to pay to plaintiffs anything whatever out of the moneys heretofore paid on said award, and evades a compliance with his said contract upon sundry different pretences, and among them, that he had agreed to pay Hon. J. J. Black one per cent. on the whole amount of the award, amounting to \$6,830, also a much larger amount to Hon. George H. Williams, as counsel employed by him in the case, and that these amounts shall be set off against plaintiffs' fees. Judge Black was brought into the case on employment of said Adams alone, after the case had gone to the umpire and had been argued and submitted by plaintiffs and Judge Williams was brought into the case in the same way after the award had been rendered, and when the case was pending on a motion for a rehearing before the umpire, and although eminent and respectable as lawyers, as both Judge Black and Judge Williams are, the plaintiffs, understanding the case, did not deem it necessary or advisable to employ either of them in the case, and they were so employed by the defendant Adams, without consulting the plaintiffs and without their consent or approval. And plaintiffs aver that by no rational interpretation of the said contract

under which they were employed could the said Adams have frittered away all their fees and compensation for several years of professional labour by thus bringing into the case additional counsel. So that whatever compensation said Adams may have stipulated to pay either of these attorneys, whether reasonable or extravagant, it could not be used as a reduction, and much less as a total abnegation of all compensation for many years of the labour of the plaintiffs. On these several pretexts the said defendant Adams now refuses to pay the plaintiffs any part of the amount received on the said first three instalments, of which his part amounted, as aforesaid, to over \$47,000; and, further, most unjustly and unreasonably claims to withhold large amounts from his part of the future instalments in order to defeat the plaintiffs' just participation therein. Plaintiffs allege that under any fair construction of the several contracts aforesaid no greater amount than some six or seven thousand dollars can be claimed as a set-off against the plaintiffs and their associates in said contract for their fees on their third part of the said \$47,000, due the said Adams out of the said instalments already paid over; and said Adams is therefore liable to pay the plaintiff and their associate counsel, under said contract, for their fees, at least nine thousand dollars out of the said money already received.

(9) Plaintiffs further state that said Adams has received the amount of money due him on the said three other awards, to wit, that of John Cole, Daniel Green, and Alfred Howell, out of the said three instalments paid over by Mexico. And the said Adams has not rendered an account to plaintiffs, although requested so to do, of the amount of money so received by him on said three last-mentioned awards, but plaintiffs aver that the amount so received by him to exceed the amount of \$7,400, and that the amount coming to the plaintiffs and their associates in said contract out of that fund exceeds \$2,469.35, on which they have received only \$453.61, leaving a balance of \$2,015.74 due plaintiffs on said three awards out of the instalments already paid over to said Adams.

(10) Plaintiffs further say that although they were employed by said Adams they were so employed by him as the agent of the said company, and were the attorneys of the said company in the prosecution of said cases, and the said company was the beneficiary of their professional services, faithfully and efficiently rendered, through a period of more than ten years in said several cases; and it was the duty of said company, when the money aforesaid came into its hands, to protect the plaintiffs in their rights and see that they were paid their just and legal compensation therein; and plaintiffs further state that before any of said moneys were paid over by the Secretary of State U. S., apprehending difficulty in getting from the defendant Adams their said just compensation, they notified the general agent and treasurer of the company, the said defendant Ely, of that fact, and appealed to him and through him to said company to be protected in their rights against the apprehended wrong and rapacity of the said Adams. And the said Ely, admitting that the said apprehensions of plaintiffs were not without foundation, promised the plaintiffs that if the said moneys were paid over to him for the said company that he would protect and see to the protection of the plaintiffs in their said rights. And although the said moneys were paid over to the said Ely, as aforesaid, yet he did not nor did said company observe their said duties to the plaintiffs in this regard, but they have proceeded to settle with said Adams and have paid the money over to him regardless of the rights of the plaintiffs in the premises. And plaintiffs are informed and believe that the said company allowed and paid the said Ely the sum of thirty thousand dollars as compensation for his services wholly regardless of the compensation of plaintiffs for their said services. And plaintiffs aver that they are also thus left wholly unprotected in their rights and at the mere mercy and discretion of said Adams in regard to the money coming to them out of the future instalments hereafter to be paid on the said awards.

(11) The plaintiffs say further that the said Adams has put his property out of his own hands, and is not responsible and nothing can be recovered from him by execution on a judgment at law. And if the said company and its treasurer, the defendant Ely, shall pay over to said Adams the money due and coming to plaintiffs on their fees under the contract aforesaid, plaintiffs are liable to lose and will be wronged out of the whole amount justly due them for their exertions and labors aforesaid, running through the last ten years.

(12) Plaintiffs also say that the said Robert Rose, named as one of the associate counsel in the contract for fees aforesaid, died shortly after the proceedings for the prosecution of said claims were instituted, and the administrator of the estate of said Rose does not claim any distributive share of the said money so payable on said awards as aforesaid.

(13) Plaintiffs further say that the defendant William W. Boyce claims a part of the fund stipulated to be paid for the services of the counsel employed under the said contract of the 25th of August, 1870, shown in Exhibit B, and so far as the said Boyce is entitled to be compensated out of said fund provided for attorney's fees in said last-mentioned contract, the same will operate to reduce the amount to which the plain-

tiffs are entitled to out of the same fund; so that the interest of the said Boyce herein is adverse to the interests of the plaintiffs, who here now call upon the said Boyce to disclose and state what services he rendered in the prosecution of the said cases, and what amount or part of the said fees are claimed by him and to which he is entitled to receive out of the said fund.

(14) The plaintiffs say that they are entitled, together with their said associate counsel, besides the said nine thousand dollars coming to them out of the said three first instalments already paid over to said company, to the further sum of at least five thousand dollars as their distributive share out of the fourth instalment now in the hands of the said Secretary of State, as aforesaid, making in all at least fourteen thousand dollars, to the payment of which the said company, as well as the said Adams, is bound upon every principle of equity and justice; and, also, there is due and coming to the plaintiffs and their said associate counsel, out of the money received by the said Adams, on the three awards aforesaid of John Cole, Daniel Green, and Alfred Howall, the sum of \$2,015.74, and the further sum of \$820 out of the fourth instalment now in the hands of the said Secretary of State, making in all the sum of \$2,835.74 on the said three last-mentioned awards, for the payment of which to the plaintiffs and their said associate counsel the said Adams is bound and also the claimants in the said several last mentioned awards, in the proportion of the several amounts thereof.

(15) Plaintiffs further say that they are the assignees of the said several funds under and by virtue of the contracts of the said Adams with the said several claimants, and the said contract of Adams with the said plaintiffs, as the attorneys to prosecute the said several claims, and as the original attorneys in the prosecution of the said several claims, who faithfully and diligently prosecuted the same to a successful termination and recovery, the plaintiffs have an equitable lien upon the money so recovered, which they here assert and set up against the said company and the said Adams as to La Abra award and money applicable thereto, and against the said Adams and the said claimants, respectively, in the cases of the said three other awards.

PRAYER.

Plaintiffs therefore pray that the said parties named as defendants above in the title of this case may be made party defendants to this bill of complaint, and that they may be required to answer each and every allegation thereof as fully as if the same were herein now severally repeated, and they and each of them particularly interrogated thereupon; and especially that they state the particulars, and give all the items of any settlement heretofore made between said Adams and the said company, and also the same as to any settlement between the said Ely and the said company.

Second. That the said Adams and the said company may be required severally to account to the plaintiffs for the amount justly due them on their said contract for fees as aforesaid, and to pay to plaintiffs their just proportion of the said instalments already paid over to said company, and for such other and further relief in the premises as equity and justice may require.

Third. And plaintiffs pray for an injunction herein as follows, to wit: That defendant, Adams, be restrained and enjoined from receiving or demanding from said company and from the Secretary of State of the United States any further payments on his said contract or any other contract with said company or any of said claimants for any part of said awards, whether now ready for payment or hereafter to be paid, until the further order of this court; that the said company be restrained and enjoined from paying to said Adams any part of the money now held or hereafter to be received on its said award, or from making any assignment of any interest in its said award to said Adams and to any other person for his interest or benefit until the further order of this court; also that the defendant, William M. Evarts, be restrained and enjoined from paying over to the said Adams, and also to the said company, the amount of money due and coming to the plaintiffs, as aforesaid, out of the moneys in his hands applicable to the said several awards aforesaid, until the further order of this court; and the plaintiffs pray for such other further and different relief in the premises as equity and justice require.

Plaintiffs pray for writs of subpoena and injunction directed to the said several defendants, commanding, &c., and plaintiffs as in duty bound will ever pray, &c.

T. W. BARTLEY, &c.,

F. P. STANTON,

Plaintiffs.

JESSUP MILLER,

Solr.

Thomas W. Bartley, being sworn in due form of law, deposes and says that he is one of the parties plaintiffs in the above bill and has read and knows the contents thereof;

that the matters and things therein stated on the personal knowledge of the plaintiffs are true and those therein stated on information and belief he believes to be true.

T. W. BARTLEY.

Subscribed and sworn to the 2nd day of July, A. D. 1880, before

R. J. MEIGS,
Clerk.

By M. A. CLANCY,
Ass't Clerk.

I certify that the foregoing is a true copy of the bill on file in said court, and farther that the two exhibits herein referred to as A and C are missing from the files of said court.

[SEAL.]

R. J. MEIGS,
Clerk.

By M. A. CLANCY,
Ass't Clerk.

TESTIMONY OF A. B. ELDER.

A. B. ELDER, sworn and examined.

By Mr. FOSTER:

Q. State your name, age, residence, and occupation?—A. My name is A. B. Elder; my residence is in Santa Clara County, Cal.; Santa Clara is my post-office address.

Q. Your age?—A. My age is fifty three.

Q. What is your present occupation?—A. I have an orchard and vineyard; that is my business.

Q. In what State were you born?—A. The State of Ohio.

Q. What was your occupation?—A. My father was a farmer. I learned the carpenter's trade when I was nineteen years of age, so that I went for myself. In 1853 I went to California across the plains.

Q. In what were you engaged in California?—A. In placer mining about up to 1858 or 1859. Then I went to Virginia City to the silver mines there; was there for a time mining and prospecting, and on the 9th of May, 1861, I landed in Mazatlan, Mexico. Christmas eve, 1867, I left there. Most of the time from 1861 to 1867 I was in Mexico. While there I was mining.

Q. After you landed in Mexico in 1861 where did you first go?—A. I took an interpreter and another man and went out to the mines; was gone some three or four months and brought up at La Puerta in the State of Sinaloa, Mexico. There I arranged for a contract on a mine, went back to California, organized a company, and returned to Mexico with machinery to work the mine.

Q. What time did you begin working the mines at La Puerta?—A. Well, I have not any memorandum of when we commenced, our company, but I think it was in 1862 that we got our mill ready to run; some time in 1862.

Q. How long were you occupied at La Puerta?—A. I was there until in June, 1866, I think.

Q. What were you engaged in at La Puerta?—A. I was erecting and running a mill.

Q. That is, a mill for reducing ores?—A. For the reduction of silver ores; yes, sir.

Q. Were you there in 1865?—A. Yes, sir; I was there until June, 1866.

Q. Have you any knowledge of the coming to that region of Messrs. Garth and Bartholow? If so, state what you know about it.—A. I first

remember that one Mr. Hardy came there, and afterwards, some time, there were other parties came.

Q. What other parties?—A. I think Bartholow and Garth and Griffith. I think there was a man named Griffith with the party. They stopped at our house on the way out, our place being about 12 miles distant from Tayoltita.

Q. How long did they stay with you?—A. I think that probably they staid over night. It was a long ride to get to our place; they staid over night with us.

Q. And then where did they go next day?—A. They went to Tayoltita.

Q. How long, about, were they there before they returned?—A. That I could not give you any definite time they spent in Tayoltita. I know that one of our men went up and was there as interpreter in the negotiation, a man that was in our employ.

Q. Well, were they gone weeks or months?—A. I think that our man was two or three weeks away from home. He would go and come, but some two or three weeks a greater portion of his time was spent there.

Q. Did you understand what their object was in going to Tayoltita?

Mr. KENNEDY. One moment, please. That question, it seems to me, should not be what the witness understood, but what was said to him.

Mr. DOLPH. I think that is the best form of question, what he learned from them.

By Mr. FOSTER:

Q. Well, substitute the word "learned" for "understood." What did you learn from them as to the object of their visit to Tayoltita?

A. Well, through this interpreter what I learned was that they were buying the mines and hacienda from Don Juan Castillo.

By Mr. LINES:

Q. Through the man that acted as interpreter?—A. Yes; it was from him I learned it.

By Mr. FOSTER:

Q. Who was this person you speak of, the interpreter?—A. A man named N. A. Farrell.

Q. Was he an American?—A. Yes, sir; originally from New York State.

Q. Did he speak Spanish fluently?—A. He spoke Spanish very well. I did not speak Spanish at that time very well, and consequently was not a judge. He transacted all our business.

Mr. KENNEDY. Now, of course, we object to anything Mr. Farrell said to this witness in regard to the transactions of Garth and Bartholow on the one part and Castillo del Valle on the other.

By Mr. DOLPH:

Q. Was what you learned through the interpreter in conversation with these parties through the interpreter?—A. He merely stated to me what was going on between Castillo and these parties; that was all I learned of him in what he said to me.

Q. Between what parties?—A. Between Bartholow, Garth, and Hardy and Don Juan Castillo; that they were buying the mines and hacienda.

Mr. KENNEDY. I understand, Mr. Chairman, that when the interpreter came back from Tayoltita he reported to the witness what had

happened there, but this report was not made in the presence of Garth and Bartholow.

Mr. DOLPH. I am not certain that the witness might not state, no matter how he obtained the information, that he learned the parties were there for that purpose. It certainly can not be a very material question, as the fact of the purchase is not denied, but when it comes down to any representations that may become material we will consider the question further.

By Mr. FOSTER:

Q. Who paid this interpreter?—A. He was paid by Don Juan Castillo.

Q. Do you know what his compensation was for that service?—A. Well, he stated to me that he was to get \$1,000 for it. Don Juan, he said, was very liberal, a very generous man.

Mr. KENNEDY. Now, Mr. Chairman, it seems to me that this is going to be quite an important matter. This witness states that the interpreter told him that the vendor of the mines was to pay him, the interpreter, \$1,000. It surely need not be said that that is hearsay, especially as it does not appear whether this man Farrell has been sought for by the Mexican Government and is not now alive and within reach.

Mr. FOSTER. We will not pursue that inquiry further.

Mr. KENNEDY. Yes, but you have got it out, you see; that is the trouble.

Mr. DOLPH. The proper way would be for the counsel to say, "I object to the answer on account of hearsay," to save trouble. We spend the most of the time in these discussions between counsel over these questions. The ruling is that the question of the counsel will be reserved until the committee comes to pass upon other questions of a similar character.

By Mr. FOSTER:

Q. Do you know whether Garth and Bartholow effected their sale; did they make the purchase of the mines at Tayoltita?—A. They did.

Q. Who was left as superintendent of the mines at the first operations of the company?—A. Mr. Hardy was at that time.

Q. Who afterwards?—A. Bartholow was the next.

Q. Did Bartholow visit your hacienda during the time he was superintendent?—A. Oh, he was there quite frequently; yes, sir.

Q. Who succeeded Bartholow as superintendent?—A. Colonel De Lagnel.

Q. Did De Lagnel visit your mining property?—A. Yes, sir; he was at our place.

Q. Often?—A. Several times; he came there once and was with me all of one day. I made some assays for him.

Q. State whether or not you went to Tayoltita under engagement with De Lagnel.—A. I did. I went there in June, 1866. I went there as mill man, a man to take charge of the mill, but the men all left, all struck and went away, and it was left to me to finish the mill. I finished the mill almost alone, I being the only American on the place that understood it.

Q. What men left?—A. The mechanics.

Q. Who were they; were they Americans?—A. They were Americans.

Q. Where were they from?—A. San Francisco.

Q. Did they return to California?—A. Yes, sir.

Q. Then you meant to say when you said you did the work, that you

were the American left in charge, you had the assistance of the Mexican workmen, did you?—A. Yes, sir.

Q. What was your reason for leaving La Puerta and going to Tayoltita?—A. Well, we suspended work on our place there.

Q. Why did you suspend work?—A. There was a good deal of difficulty in getting any supplies such as we needed for working, such as salt, quicksilver.

Q. What was the occasion of those difficulties?—A. Well, the war in the country, the armies, it was difficult to get through.

Q. War between what powers?—A. Between France and Mexico.

Q. Did that war between the French and Mexicans interrupt your work?—A. Very materially; yes, sir.

Q. Just describe how it interrupted your work.—A. Well, the armies in passing by; sometimes our miners would all go away, run off for fear of being pressed into the service, and to get supplies we had to go through two lines of armies, and it was oftentimes we could not get them at all.

Q. Who was in possession of the port of Mazatlan the greater portion of the time you were at La Puerta?—A. The French army.

Q. Who was in possession of the country lying between La Puerta and Mazatlan?—A. The Mexican forces.

Q. Then you mean that you had to pass through the French forces at Mazatlan and the Mexican forces lying in the country between?—A. Yes, sir; right on the outside of the city.

Q. What was the work in which you were engaged when you first went to Tayoltita under your engagement with De Lagnel?—A. Well, while the boss mechanic was there I was helping him to place the machinery. The wheel, I believe, was finished when I was there. I did general work about the place while they were there, and when they all left I had to do it myself. I had control then of the finishing of the work.

Q. Was there any other work in which you were engaged, fitting up the houses, anything of that kind?—A. No, sir; nothing outside of the mill except the assaying.

Q. About what time was the mill put in running order and begun operations.—A. About March, 1867.

Q. What was the first operation of the mill after it was put in order and begun to work?—A. I put in ten tons, I think it was, of second-class El Christo ore.

Q. Second-class El Christo ore?—A. Yes; I crushed and sampled it and assayed it. I found that it was not very satisfactory, and I cleaned up the battery of that lot and put in some of the first-class.

Q. About how much?—A. Well, I don't think I crushed more than probably a ton and a half of that or two tons so as to get a sample so as to assay. I crushed that and made assays of the first class also.

Q. What was the result of that first working of the mill that you have just described?—A. You have reference to the proceeds?

Q. Yes, the proceeds.—A. The proceeds were very unsatisfactory. The ore was supposed to go \$150 a ton and went $10\frac{1}{2}$ to $11\frac{1}{2}$ ounces.

Q. What is the ounce worth?—A. The ounce is worth \$1.29, $\frac{2}{3}$ at that time; that would be pure silver; there was some gold, which made it worth a little more.

Q. So that increased the result per ton about how much?—A. The result per ton was probably about \$18—\$16 to \$18.

Q. What was the first-class ore expected to yield?—A. The first-class ore was expected to yield about \$250 to \$260. There was no ma-

terial difference in the value of the first and second class ore; they were about the same, so that I made no distinction.

Q. What constituted the difference between the first and second class ore?—A. In the appearance to me there was none. It was merely that that was a pile of first-class ore, and that is second class.

Q. Who did separate the ore first?—A. The men that cleaned the metal.

Q. How much over 150 was the ore expected to run?—A. The second class was about 150, and the first class was about 250.

Q. Expected by whom?—A. The superintendent, De Lagnel.

Q. What was the effect of your report upon De Lagnel.

Mr. KENNEDY. Mr. Chairman, the question is: What was the effect upon De Lagnel of a certain report? To that question I object.

Mr. FOSTER. I will withdraw the question.

Q. Did you make a report of this run of metal to the superintendent of the mill, De Lagnel?—A. I did, sir.

Q. What did he say to you when you made that report?—A. He told me to clean up the pans, retort, and give him the proceeds of the ore that I had crushed, which I proceeded to do at once; and in the course of a day or two I had it all ready for him. The pans all became quick-silvered. A great deal of the amalgam sticks to the sides of the amalgamating pans when the silver is extracted. Then I retorted and melted it to a brick, but it was so unsatisfactory that he sent it off and had it refined.

Q. So unsatisfactory to whom?—A. To the superintendent, De Lagnel. He had it refined and then he left. He took it and went to Mazatlan.

Q. After you made this report to De Lagnel what instruction did he give you in reference to the ore on the patio, if any?—A. His request was that I should take the men and make samples and assays of the different grades of piles of ore on the patio, which I did.

Q. Describe how you did that?—A. I did it by putting men on the top of each pile, going right down through the center, and taking out a shovelful of rock occasionally and throwing it into a wheelbarrow, and running it to a pile by itself, until I would get an ample quantity for running in the battery and crushing, and then for assaying. There were a number of different piles of first, second, and third grade ore; I had about six piles of ore, I believe.

Q. What was the total amount of ore on the patio proper?—A. I couldn't swear as to that. I think probably there were 600 or 800 tons.

Q. When you collected these different samples from the different piles what was the character and amount of the ore that you had collected for your assays?—A. It was about a ton, from the center of pile, digging right down through it. These samples I crushed, took samples from the battery, and assayed to ascertain correctly what was in them.

Q. What was the result of your assay; what did it show?—A. It ran from 3 to $4\frac{1}{2}$ ounces.

Q. Per ton?—A. Per ton. We always estimate per ton.

Q. How did that conform to the expectation of the superintendent as to the value of the ore?—A. It was a disappointment; it ran far below what he expected; some of that ore was supposed to go as much as \$400 per ton, but it only gave \$4, and the ore that was expected to go from \$300 to \$200 a ton did not give more than from 3 to $4\frac{1}{2}$ ounces. We always give results in ounces.

Q. You say that De Lagnel took the bullion that was the product of

the first run of the mill, which you have just described, to Mazatlan with him?—A. Yes, sir.

Q. Who accompanied him to Mazatlan on that business?—A. Mr. Exall and I.

Q. Do you know about when that was?—A. I can not very well fix that date; it has been so long ago.

Q. Was it or not when De Lagnel was leaving the mines to return to the United States?—A. That is when it was. When we arrived at Mazatlan he took the steamer for California.

Q. What occurred with that bullion when it reached Mazatlan?—A. The custom-house officers there seized it.

Q. Where?—A. At what we call there the *garita*, as we come into the city:

Q. The entrance to the city?—A. The entrance from the interior.

Q. Where they have a custom-house guard?—A. Yes, sir.

Q. Was it afterwards recovered?—A. Yes, sir; it was afterwards recovered and forwarded to the company.

Q. And De Lagnel left for New York?—A. Yes, sir.

Q. At that time?—A. Yes, sir.

Q. Where did you then go?—A. I returned to Tayoltita.

Q. And what position did you occupy, and what were you engaged in upon your return?—A. I was in charge of the mill and went to reducing ores again; reduced ores as long as there were any there that would pay for reducing.

Q. How long did you work the mill, approximately, after your return from Mazatlan?—A. I think I did the last work in running the mill about the last of September or first of October, 1867.

Q. From what mines were the ores taken upon which the mill was run during that time?—A. All the ores were from El Cristo.

Q. What was your object in working up the ores? What instructions had you received from the superintendent?—A. To work all the ores that were there, to produce what bullion there was, and pay off the men about the place. When I had produced the bullion Mr. Exall took it in charge and took it to the mint at Durango, some 300 miles distant. I remained there until he came back, and then I was paid off.

Q. What did he take it to Durango for?—A. For the purpose of taking it to the mint to get coin for it.

Q. Do the laws require the bullion to be coined?—A. The laws require the bullion to go to the mint in the State in which it is produced.

Q. What did you understand as to the financial condition of the company at the mine?

Mr. KENNEDY. That question is objected to, Mr. Chairman.

The CHAIRMAN. I suggest that you do as you did before; ask him what he was told.

Mr. FOSTER. What were you told as to the financial condition of the company at the mine during this last running of the mill that you have spoken of?

Mr. KENNEDY. Mr. Chairman, it ought to show, I think, by whom he was told.

Mr. FOSTER. His answer will show that, and if it is improper the committee can rule it out.

Mr. KENNEDY. But my business is to make such objections as I think ought to be made; and I say, with all respect to the chairman, that the question, as Mr. Foster asks it, not showing the source of the information given on that important question to the witness, is manifestly improper. It should be shown that the person giving the information to

the witness held such relation to the company as to bind the company, if the object of this investigation is to bind the company.

Mr. FOSTER. We will know who it was when he tells.

The CHAIRMAN. That objection has been virtually sustained several times during this examination. The witness will confine his answer to statements received from persons in charge of the business of La Abra Mining Company at the time.

A. Mr. Exall informed me that there was no money on the place for the settlement of accounts, but that I would get my money when he returned from Durango if he was not robbed on the road; that I could not have any money until he got back from Durango, as there were no funds there, and they would not send any from the East.

Q. What, if anything, did De Lagnel, the former superintendent, tell you before he left as to the expectation or ability to obtain money from the company in New York?—A. Mr. De Lagnel did not say anything to me. At the time he left there was not any great doubt or question about it.

Q. Did the superintendent say anything to you about the instructions of the company not to draw upon it?—A. The book-keeper told me that they could not draw any money; that they would not honor any drafts; that they were in debt to the Bank of California, and they expected trouble with that bank.

Q. How much money did Exall get from a reduction of the ores you have described, from the time you returned from Mazatlan to Tayolita?—A. I could not answer that question.

Q. Can you give any approximate idea?—A. Not unless I could recall. I would think, though, from the amount of ore that was reduced, it would be near \$4,000, and from the way the ores paid.

Q. About how much ore in quantity did you reduce?—A. In all I reduced nearly 250 tons of El Cristo ore.

Q. Why did you confine your reduction to El Cristo ore?—A. Because there was no other that would pay for working.

Q. I understand that this \$4,000 approximately was the gross proceeds?—A. That was gross; that was the gross product.

Q. You say that you ceased reducing about the last of September or 1st of October, if I understand you?—A. Yes, sir.

Q. What was done after that time in the mine?—A. There was not anything being done in the mines.

Q. The mill was not run any more after that time?—A. No more.

Q. Why was the mill not run any more after that time?—A. There was not anything to justify running it.

Q. What do you mean by that?—A. That there was not any ore that would pay to work.

Q. Then your running of the mill up to that period had exhausted all the ores that had been taken out of the mines that it would pay to reduce?—A. That is all there was that had money enough in it to pay us to work it.

Q. What proportion of the ores did you reduce? You say about 250 tons; what proportion did that bear to the total amount of ore on the patio of the hacienda?—A. I think about 25 per cent. of the ore that had been brought down from the mines.

Q. What was the character of the ore that was left—the 75 per cent. remaining on the patio?—A. That was a sulphuret ore, colored, and containing a great deal of antimony and some lead, as well as some iron in the shape of iron pyrites, which made it a very refractory ore. That ore could not be worked without roasting, and the money that was in

it would not justify the roasting, as the roasting process would cost us about \$12 a ton for the roasting alone.

Q. Can you account for the deception of the superintendent as to the quality of ore spoken of, the mistake he made in its supposed value?—A. It was a class of ore that from its appearance would deceive any one but the man who assayed it; it was a dark-colored ore, looking very much as though it would carry a good quantity of silver; but when you come to assay it you got a large button of lead in the cupel; but when you came to reduce it and get the residue it was very small. When you get the silver button it is very small. The ore was very black and heavy. Silver does not make ore heavy unless it is rich, but lead and antimony do. De Lagnel never made any assays of the ore, and consequently he was deceived. There were men in that company who made it their business to clean ores, and they pretended to be very good judges of ores, but we found that they had to be ores of a kind that they were well acquainted with in order that they might judge of the ore anything near correctly.

Q. The ores from the different mines varied in appearance and characteristics?—A. Varied some, but not as much. Any of them would deceive the miner or men that cleaned ores that we took out of the mine.

Q. When did you leave Tayoltita?—A. I must have left Tayoltita in December, 1867. I know I was not in Mazatlan long before I took the steamer; only three or four days.

Q. When did you take the steamer?—A. On the 24th of December, 1867.

Q. From the time you ceased working the mill, the last of September or the 1st of October, as you have stated, up to the time you left Tayoltita for Mazatlan, what were you engaged in?

The WITNESS. From the time I left Tayoltita?

Mr. FOSTER. No; from the time you ceased working the mill, which you say was about the last of September or 1st of October; from that time to the time you left Tayoltita to go to Mazatlan what were you doing?—A. I remember very well of gathering up everything from about the mill and taking it in a house that was there for that purpose; putting the ore, the quicksilver, and everything pertaining to the mill in that room, and straightening up the assay; and gathering up all the tools from about the place and putting them into the carpenter's room. I did that, and then I think I was idle for a month or more, and did not get any pay. I was awaiting the return of Mr. Exall from Durango.

Q. What were the other employés doing during the same period of time?—A. They were idle.

Q. Was there no work being done at the mines or mill?—A. Nothing at all.

Q. What was the occasion of this idleness?—A. It was lack of funds and the belief that the ore would not pay to work it.

Q. Who entertained this belief that the ore would not pay to work?—A. The results of the assay showed that the ores would not pay to work, and that is what they were all governed by. Many samples of the rock from different portions of the mine were brought down in order to see if we could not find better ores in other parts of the mine, but the results were about the same. As they could not find better ores it was not worth while to work them and they were all laid off.

Q. When you left there whom did you leave remaining at the hacienda, of the American employés?—A. No one but Exall and Mr. Granger. There was no other American left. Sloan was lying around

there; he was one of the miners, but he did not leave. He was there, but he was not employed.

Q. I would like for you to describe a little in detail the working of that mill, from the time the ore was taken from the patio until you obtained the silver product, in order that we may form an idea of the process by which the silver was reduced. The ore was first taken from the patio, was it not?—A. The ore was first taken from the patio and dumped in on the back side of the battery and then shoveled into the stamp, there crushed, and it came out through the fine screens on the front side; then it went into the vats below; there were six of those vats, I remember, right below, and they were filled up. Then in front of the vats was a space of floor, some 4 feet between that and the pans. There was some dropping down all the time, a little; everything went down hill. Then we would put probably 1,000 pounds into a pan and grind it. Those pans were made of white chilled cast-iron, shoes and dies. They remained in the pans for about six hours, and we would grind and steam, say four hours, and then add quicksilver; the quicksilver would catch up the silver and gold that was free; we would add some salt and quicksilver to copper.

Q. From the pans?—A. From the pans. We had a plug at the bottom of the pan, and the quicksilver was drawn from the ores. That quicksilver contains the silver that had been in the ore, up to probably 90 per cent., all there was in the ore. When that plug was drawn the quicksilver ran out, and then we would draw the plug and let the residue, the tailings, the sand, the rock, run out in the ore; that would run away into the concentrator. That would still catch a few sulphurets and some quicksilver that might still be afloat, from being hot.

The CHAIRMAN. Gentlemen, I do not see very well how we can continue this examination longer at this hour unless Senator Morgan is at liberty to come in. I shall have to be in the Senate Chamber this afternoon. I will see him, however.

The subcommittee took an informal recess, and was afterwards adjourned until 12 o'clock to-morrow, January 30, 1889.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., January 30, 1889.

The subcommittee met pursuant to adjournment. Present: Senator Dolph; Mr. Crammond Kennedy for La Abra Silver Mining Company; and Hon. John W. Foster and Mr. Robert B. Lines, representing the Government of Mexico.

TESTIMONY OF A. B. ELDER—Continued.

A. B. ELDER was recalled to the stand and further examined, as follows:

By Mr. FOSTER:

Q. Continue, if you please, from where we left off yesterday, as briefly as you can, in order to convey an idea of the process you were then describing.—A. When the amalgam is drawn into a kettle and poured into the sacks it is strained off until it becomes dry amalgam.

It is then retorted in the retort, and from there taken to the refining furnace. The refining is done outside of the mill. That is something I have nothing to do with.

Q. Then you have described the process, as I understand it, from the time the ore left the patio until it left the retort.—A. That is, as far as I handled it.

Q. In what condition was the silver when it left that process?—A. It was bullion from the retort. That contained everything that the quick-silver might catch up; there might be some copper, and the gold and silver would be all that was there, and some little lead, probably. From my hands it went to the refiner. The refining was not done in the mill.

Q. How nearly pure was this silver when it left your hands?—A. That was probably not over 600 fine. Fine silver is 1,000.

Q. What do you mean by 600 fine?—A. One thousand is fine bullion. That is pure silver. A silver dollar is 990 fine. A gold piece is 990 fine gold.

Q. Then this was six-tenths pure silver?—A. Six-tenths fine metal. There was some gold in there.

Q. I want to know who had charge of this process that you have just described, from the time the ore was taken from the patio until it left your hands to go to the refiner?—A. I was the man that did all that; that was all in my charge.

Q. Then you superintended the running of the mill?—A. From beginning to the end.

Q. The whole of this process?—A. All of that process.

Q. There was no other person in the hacienda or connected with the company at the mines who had charge or superintendence of that method or process but yourself?—A. No, one; no one that ever said a word at the mill.

Q. You spoke yesterday of having made an assay at the request of De Lagnel after the first run of the mill, an assay of the ores on the patio. What was the result of your report as to the working of the mines?

Mr. KENNEDY. The witness has already gone very fully into the question, Mr. Chairman. I do not know what the purpose is of having him go over it again on the direct examination.

Mr. FOSTER. I think it will save time if he is allowed to answer the question. I think I ought to be allowed to conduct the examination. Let me modify that question.

Q. What was the effect of that report upon the working of the mines? (He has not referred to that.)

Mr. KENNEDY. I think, Mr. Chairman, the question ought to be: "What was done after that report was made?" The "effect" is rather objectionable.

Mr. FOSTER. I want him to testify as to it.

Senator DOLPH (in the chair). Let him answer, stating what was said and done in connection with the working of the mine by the superintendent.

A. When I reported the result of the assays from the different ores on the patio work was at once stopped on the mines, and I was ordered to work up what ore there was on the patio from El Cristo, and that would be the end of the operations.

By Senator DOLPH:

Q. What do you mean by saying that would be the end of the operations?—A. That there was no more ore that would justify working.

Q. Did some one tell you that?—A. Colonel De Lagnel told me, as long as there were no better ores that could be found than any that were there, the work would have to stop.

Senator DOLPH. I supposed that was the case, but it had not heretofore appeared.

Mr. FOSTER. Yes; it was not clear.

By Mr. FOSTER :

Q. You say that the work at the mines was stopped. Do you mean that the work was entirely stopped? Explain that.—A. The work there never entirely stops; they have to have about four men at work. The law requires that they shall keep three or four men at work at least eight months in the year.

Q. Then you mean to say that all the work was stopped except what was necessary to conform to the law so as to retain possession of the mines?—A. Yes, sir.

Q. Was any large amount of work in the mines resumed after that time?—A. Not while I remained.

Q. When De Lagnel left, who remained in charge of the hacienda as the representative of the company?—A. Well, I supposed when Colonel De Lagnel left that there was not any one left. I supposed that Mr. Exall and Mr. Granger were, just as myself, merely in the employ of the company. I did not suppose either one of them represented the company. I think Mr. Exall, however, assumed the responsibilities of the place and looked after things in general, but I never considered him as superintendent. A superintendent there has to have authority from his company to be of any force.

Q. Who remained at the head of the property to answer any demands?—A. Mr. Charles H. Exall.

Q. He remained at the head of the concern?—A. Yes, sir.

Q. But you did not understand that he had authority from the company as their superintendent?—A. He did not have; I am satisfied of that, because he could not sue or be sued very well, as a superintendent can be.

Q. What do you mean by your statement that he could not sue or be sued? Was there any attempt made to bring suit?—A. No, I don't know as there was: but such question are always suggested to us there. He was the administrador at the hacienda, the responsible man, really, of the place. In their affairs there is always some one of that kind.

Q. Exall remained in charge during your stay there?—A. Yes, sir.

Q. He remained there, when you left, in charge of the works?—A. Yes, sir.

Q. State, if you know, what was Exall's experience in and knowledge of mining.—A. When he came there from New York I don't think he knew anything at all about it; I don't think he had ever seen a mine.

Q. Did he say anything to you on that subject?—A. He did. He said he knew nothing about mining, and asked me how long it would take to learn assaying, etc., so as to become more familiar with that kind of work. My reply was that it took a good deal of work to become familiar with the amalgamating of the ores and assaying so as to be able to tell what ore was; that it took a good deal of time.

Q. What did you learn as to his knowledge, from your intercourse with him?—A. My idea would be, from the way he talked, that he did not know anything at all about mining, had never been in a mine at all before.

Q. How did you infer that?—A. I inferred it from his conversation,

and he said "this is my first experience in the mine, and of course I know nothing; I may ask you a great many questions that seem simple." I told him that made no difference; that I would answer his questions to the best of my ability.

Q. Can you tell how many mules were owned by the company while you were at the mines?—A. Well, we had about the place, I think, twelve or thirteen mules that were there constantly about the place—that were used for various little errands—saddle mules, pack-mules, etc.

Q. How was the transportation of the company carried on?—A. The ores from the mines came down by contract mules that were hired by the carga; everything there is packed at so much a carga.

Q. The ores were brought down on the backs of mules?—A. Yes, sir.

Q. By whom were those mules owned?—A. I couldn't tell you.

Q. Were they owned by the company?—A. No, sir; they were not owned by the company there.

Q. Then all the ores were transported from the mines by contract with carriers?—A. Yes, sir.

Q. About how far were the mines from the hacienda?—A. Three miles, so considered.

Q. Can you tell where the State line ran between Durango and Sinoloa?—A. I knew when I was there.

Q. I mean with relation to the mining property?—A. I never was at the mine; never was up to the mine.

Q. Can you indicate about how far from the hacienda the State line ran?—A. I think it ran within 100 feet of the mill.

Q. Then, were some of the mines in one State and some in the other?—A. As to that I couldn't say.

Q. They were all in the neighborhood of the State line?—A. I think they were very nearly all in Durango.

Q. May some of them have been in Sinoloa?—A. Some of them may have been in Sinoloa; but as we worked the ores in Durango I always supposed the mines were in Durango. I never asked that question, and never heard the question talked of there.

Q. Referring to the taking of the ores to the patio and the hacienda, what was approximately the entire cost of extracting the ores from the mines and bringing them to the patio at the hacienda?—A. I can only give you an idea of what it would cost to bring them down. I do not have any idea what it would cost to extract the ore. I think probably it would cost from 37½ to 50 cents per carga to freight the ores down.

Q. That would be, approximately, how much per ton?—A. Approximately \$3, more or less, I presume.

Q. You can not give an idea of what it would cost to extract the ores from the mine?—A. No; I really have no idea; I never was in the mines.

Q. How were the ores brought up from the veins?—A. They were brought up on the backs of men called barrateros.

Q. Have you any recollection of a forced loan levied upon the company, or attempted to be levied, about July, 1866? If so, state what you remember.—A. I remember of hearing such a thing talked of, but it did not attract much attention, and I did not pay much attention to it.

Q. What effect did it have on the working of the mines?

Mr. KENNEDY. I object to that.

Mr. FOSTER. This witness was there.

Senator DOLPH. I understand that. The difficulty in the question is that it asks for an opinion. If we were applying strict legal rules the objection would be good. I will let the witness state what

occurred in that connection or immediately afterwards, and then we can judge as to whether it was the effect of the fact stated.

Mr. FOSTER. That is the object I had in view in asking this question.

Q. State whether or not there was any cessation or interruption of the work on that account.—A. I think the forced loans were where they merely sent notice to the superintendent that they wanted so much money. I think the matter rested with him. He replied in some way. I don't think it had any effect whatever upon the officers. I never saw any of the officers about there, and consequently I don't think it had any immediate effect. I never saw any soldiers or anything of that sort there.

Q. Did you have any experience, during your residence in Mexico, with attempts to force loans from you or the company that you were connected with?—A. Yes, sir.

Q. State about that.—A. They served notice on us that they required so much money from us.

Q. Did you ever pay any such loans?—A. We never did. If the officers or men came to our house, the officers quartered with us, and we would give the men, if they required it, something from the store, such as corn, beans, beef, or such things as that. But I don't remember of that ever occurring but once in our time.

Q. What attention did you give to the demands when the notice of loan was served on you?—A. If they wanted to force it, they had to enforce it. We did not intend to answer voluntarily, and so we sat still to await results.

Q. I understand you to say that they did not enforce the results?—A. They never did, any further than to serve notice.

Q. How long were you in the country?—A. I was six years in the country.

Q. Do you know anything of any troubles that occurred between the superintendent of La Abra mines and the authorities about July, 1867? if so, state what you know in regard to it.—A. Yes; they served a notice on the company that they wanted them to work more men; that they wanted them to put more work on the various mines. The company did not want to work any more, because the quality of the ore being produced would not justify working any more, and they were short of supplies in the hacienda.

Q. What do you mean by supplies?—A. I mean beans, corn, calico, beef, rice, and such things as that. They all had to keep a general store there to supply their men mostly.

Q. Were the men to be paid out of those supplies, or what was the arrangement as to that?—A. I am not positive as to the arrangement, but in that country it is customary for every mining company to keep such supplies on hand, and every Saturday night or Saturday noon the men come in from the mines and they all present their accounts and get their rations for the next week. They get whatever is coming to them, and they draw it then.

Q. Do you mean to say that they receive all their pay in rations or only a portion of it?—A. If they want it they get it; some times they get money and sometimes provisions. It is all owing to the contract.

Q. Do you know what arrangement there was at La Abra mine at the time we are speaking of?—A. I never ascertained what the arrangement was with the men, whether they were to be paid cash or in groceries. When times are hard men will work for groceries, for provisions. Mostly all companies in starting would pay money, but as the money

would get scarce they would come down and pay less money and more goods.

Q. Was there any cessation of the work—if so, to what extent—on account of that notice from the authorities?—A. I am not positive whether there was any cessation or not. There was not any in my part of the place.

Q. This notice related to the working of the mine, did it not?—A. As to putting on more men in the mine. I could only work so many in my department.

Q. State what you know, if anything, in regard to the forcible carrying off of ores from the patio of the hacienda by the people of that locality.—A. They never carried off any ores while I was there, forcibly or otherwise.

Q. Were any stolen, so far as you know?—A. We always kept a watchman on the patio. I don't think there was any stolen while I was there.

Q. How long was that watchman kept on the patio?—A. He was there every night.

Q. Up to what period?—A. Up to the time that the mill ceased running; that was probably in October, 1867.

Q. Was the watchman withdrawn then? Did he cease his duties after that time?—A. No; the watchman was still kept on. Probably as long as I was there there was a watchman on every night, because the place was not inclosed, except by a wall two or three feet high around the patio; no high walls, as there are around some haciendas.

Q. I want to know if Exall told you anything about the financial condition of the company before you left, and what his expectations were in regard to his own movements.—A. The only conversation that we had about that was when he came back from Durango with the bullion that he had taken there; he then paid my wages and some others theirs, and said, "Now, I am just short what we owe George Cullens, the boss miner." I think he said the sum he owed him was \$1,600, and he said, "That money I will have to borrow;" and he did borrow it and paid Mr. Cullens.

Q. Did he say anything about any expectation or hope of receiving money from the company in New York?—A. He said that he had drawn on them, and that he expected the money when he went to Mazatlan.

Q. Do you know whether he got the money at Mazatlan from the company?—A. I couldn't say that he did or did not.

Q. Was Cullens paid off?—A. He was paid off.

Q. Did Exall say anything at that time or at any time before you left about what his intentions were as to his own movements?—A. I don't remember that he said anything about what he would do. I heard him say that he was in a bad fix if they did not send him money from New York as per his request. He explained that it had taken about all to pay off that was due there at the hacienda and to pay Mr. Cullens under his contract.

Q. Did he know, when you were going, to what point you were destined?—A. Yes, sir; he knew I was going to San Francisco. I think that was about as much as he knew about my destination.

Q. Do you remember about when Mr. Granger came to the mines?—A. Yes, sir; I remember when he arrived there. I couldn't say as to the date.

Q. Did he come in company with any one?—A. He came with Mr. Exall.

Q. What did he do when he first came to the mines?—**A.** He seemed to be a gentleman of leisure entirely.

Q. He was not employed by the company?—**A.** Not at that time, sir.

Q. Did he afterwards become employed by the company?—**A.** I think he was afterwards a book-keeper for the company.

By Mr. LINES:

Q. Mr. Exall said he would be in a terrible fix if the company did not send him money. Can you explain that a little; what sort of a fix you understood him to be in?

Mr. KENNEDY. If it please the chairman, the witness ought to be asked, if any further examination is made on that point, whether Exall said anything further, not whether the witness can explain what the fix was.

Mr. LINES. I have no objection to putting it in that way. Did Mr. Exall explain what the fix was?

The CHAIRMAN. I should think the proper question would be: State what, if anything further, Mr. Exall said about the difficulty in not receiving money.

A. Mr. Exall seemed to be——

Mr. KENNEDY. Do not tell us, please, what he seemed to be; answer what the Senator asks; what he said.

The WITNESS. He says, "You can imagine what it is to be in a country like this and without means; and how I shall get along I am unable to conjecture."

By Mr. LINES:

Q. Did he say anything to you about an effort made by the Bank of California to secure payment of a draft which had been drawn by De Laguel or by Exall?

Mr. KENNEDY. The objection to that, Mr. Senator, is that that is altogether too leading on a direct examination.

Senator DOLPH. I think he may be permitted to answer the question.

A. I do not think I ever heard anything said about that; it was out of the line of the conversations we usually had.

Q. You do not know anything, of your own knowledge, about any steps that were taken by the Bank of California to collect the debt?—

A. No, sir.

Mr. LINES. That is all.

Mr. FOSTER. We have no further questions.

Senator DOLPH (to Mr. Kennedy). Proceed with the cross-examination.

By Mr. KENNEDY:

Q. You said you owned a mine at La Puerta; what kind of a mine was that?—**A.** It was a gold and silver mine.

Q. What was the character of the ore?—**A.** It was sulphuret, and very refractory.

Q. What process did you use in reducing it?—**A.** We roasted the ores; amalgamated them in pans, the same at the Tayoltita works.

Q. Did the Tayoltita works have roasting apparatus?—**A.** There was a fine roasting furnace built there, but we never used it.

Q. Then you do not mean to say that the process was the same as at your mine at Tayoltita?—**A.** The ores that were worked at Tayoltita were free, but had we worked them any more they would have had to be roasted.

Q. That was not my question. Now you say that the roasting apparatus at Tayoltita was not in use while you were there?—A. No, sir.

Q. What was the value of the ore that you worked in your mine?—

A. The ores varied greatly in value, from 100 to 500 ounces of silver.

Q. Per ton?—A. Yes, sir.

Q. How far was your mine from your reduction works?—A. About 3 miles.

Q. Did you have any trouble with your miners; I mean in regard to stealing your ore?—A. Not while the company was in full blast; afterwards, after the French left the country, I undertook to work the mines, and then they packed off some of the ores.

By Senator DOLPH:

Q. That is, the working-men?—A. The miners; yes, sir.

By Mr. KENNEDY:

Q. To what extent was that done?—A. I was working a small force. They took off probably the best portion of the ores from the mine; so much of the ore that I quit work.

Q. Could they beneficiate those refractory ores?—A. Yes, sir; they have a process by which they can work anything.

Q. They are very skillful at that?—A. They are.

Q. Did you make any appeal for protection when your mines were robbed?

Mr. LINES. I do not want to object to this, but I do not see that it has any bearing on anything that was brought out in direct examination. What the object is I do not know.

Senator DOLPH. I think it may be answered.

A. After the French left the country there did not seem to be much law or order. The justices of the peace seemed to be comparatively powerless. I went to a justice of the peace about the matter, and he said, "You had better prorogue your mine, and not work it at this time, because I can not do anything about it now."

Q. What does it mean to prorogue a mine?—A. To prorogue a mine, there is a mining judge there who can give you permission to let your mine lie still, so that it shall not be relocated by any other person.

Q. That keeps others from denouncing it?—A. Yes, sir.

Q. What is the name of that magistrate to whom you applied?—A. I can not tell; it was so long ago I have forgotten; they often change down there; each administration has its own officials.

Q. Did you ask him to try to stop these robberies?—A. I went to him and told him that they had taken from me probably twenty-five cargoes of very fine ore, and I wanted to get an action against them to make them stop taking my ores, and he said, "The way things are at present I don't think we can do anything with them."

Q. Did he say anything as to what would be the personal results to himself if he attempted to enforce the law?—A. He said that he didn't think it would be safe for him or me to attempt to enforce the law, to attempt to arrest the men.

By Senator DOLPH:

Q. What time was that?—A. That was in 1865.

By Mr. KENNEDY:

Q. That was after the French had left?—A. Yes, sir; they had left Mazatlan.

Q. And when you were working the mine on your own account?—A. Yes, sir.

Q. What did you do in consequence of the advice of that magistrate?
 —A. Our company had virtually ceased work until times got different. Our company had suffered from a robbery from one of our own men. There was not any one on the ground then but myself.

Q. My question is what you did yourself?—A. I didn't work any more.

Mr. LINES. One moment, if you will permit me, Mr. Kennedy. Your question was, as I understood it, "What did you do in consequence of the advice of that magistrate?" and he proceeded to say that because of a robbery committed by one of his own men—

Mr. KENNEDY. No; he said the company; and I directed his attention to the fact that my question was what did he do, and then he apprehended it, and he said that he stopped work.

Mr. FOSTER. You ought to allow him to finish his answer.

Mr. KENNEDY. I have no objection whatever to having the witness say whatever he chooses in answer to my question.

Mr. LINES. Suppose you ask him whether he stopped work in consequence of the advice of the judge, or in consequence of the robbery.

Mr. KENNEDY. I have already asked him that.

Senator DOLPH. Let the witness state whether he means to be understood as saying that he quit work on account of the robbery committed by one of the employés of the company, or on account of the advice that the justice of the peace gave him.

The WITNESS. We quit work more on account of the robbery committed by our own man.

By Senator DOLPH:

Q. That was the company?—A. A man in the employ of the company.

By Mr. FOSTER:

Q. An American or Mexican?—A. An American.

By Senator DOLPH:

Q. Did you work the mine after that?—A. I worked the mine, not for the company, but as an individual.

Q. After that?—A. Yes, sir.

Q. And it was during the time you were working on this mine that the ore was taken?—A. Yes, sir.

Q. And in consequence of the stealing of your ore you went to the justice of the peace to get him to bring suit against the parties, and he advised you that on account of the condition of affairs it was not practicable, and you quit work on the mine; is that it?—A. Yes, sir; I quit working.

Q. On that account?—A. Because I couldn't protect myself from the men at that time.

Q. The authority of the Mexican Government had not been yet established at the time, after the French had left that section of the country?—A. No, sir.

By Mr. KENNEDY:

Q. After you quit working at La Puerta where did you go?—A. To Tayoltita.

Q. Had you made any assays for Mr. De Lagnel before you went to Tayoltita?—A. Yes, sir.

Q. Just tell us what assays you made for him before you went to Tayoltita.—A. He came to my place with some ores and asked me to make

assays for him. I did so, and I got very fine results, about \$250, and as much as \$600, that day from those ores.

Q. Per ton?—A. Yes, sir.

Q. Did you keep a memorandum of the assays that you made while you were working your own mine and while you were employed as millman at Tayoltita?—A. I had a book there that I entered every day's assays in.

Q. Have you that book now?—A. That book is not in existence.

Q. How do you know?—A. Because it was in my possession, and I know that it is long since destroyed.

Q. When was it in your possession?—A. It was in my possession when I came to California.

Q. What year was that?—A. 1867.

Q. When was it destroyed?—A. Some time within the last ten years.

Q. Can you not be more definite than that?—A. I might say prior to 1880.

Q. What destroyed it?—A. It was destroyed by my moving away and leaving it behind in a trunk, and the trunk and everything was destroyed.

Q. How?—A. I know not exactly how.

Q. One moment. You answer the question yourself. Why did you say it was destroyed?

Mr. FOSTER. It is not necessary, is it, Mr. Chairman?

Mr. KENNEDY. It is cross-examination.

Mr. FOSTER. He has a right to answer as he pleases.

Senator DOLPH. I do not see anything in the way of the witness answering the question.

The WITNESS. I would like to answer the question. I wrote for those papers, and the people wrote to me that they were all destroyed.

Q. (By Mr. KENNEDY.) In what manner?—A. That they were burned up; that they had burned them.

Q. What people were they that you wrote to?—A. They were the people where the papers were.

Q. Give me their names.—A. It was a son——

Q. What were their names?

The CHAIRMAN. Let the witness answer.

A. It was a son of mine.

Q. Can you remember their names?—A. I say it was a son of mine.

Q. How did your son say that the fire happened?—A. It happened in this way: About six years ago I was in Hermosillo, in Sonora, and those that were with me died with the yellow fever, and I was reported to have been dead. That information was sent to my son's family, and they, thinking I was dead, took all those old papers and destroyed them, burned them up; there was quite a number of them. I wrote to them for these papers since I have been summoned in this case. I supposed I might find that memorandum, but they wrote back to me that that trunk and all those papers had been selected over and all those old papers were destroyed.

Q. Have you the letter in which they told you that?—A. No, sir; I have not.

Q. When did you receive that letter?—A. It was about two weeks ago.

Q. Do you mean to swear that you never knew that those papers were destroyed or how they were destroyed until two weeks ago?—A. I didn't know until about two weeks ago that they were destroyed, and I supposed that I had that memorandum-book that contained those

assays made for La Abra Mining Company. It was a little memorandum-book that I often carried in my inside vest pocket, showing day and date of assays.

Q. Where did you go after you left Tayoltita in 1867?—A. I went from Tayoltita to Mazatlan, and from Mazatlan to San Francisco.

Q. Did you remain at San Francisco?—A. Not long.

Q. Where did you go after that?—A. I went to Cerro Gordo, in Inyo County, Cal.

Q. How far is that from San Francisco?—A. It is 250 miles, almost due east.

Q. How were you employed there?—A. I was the originator of large smelting works; owned one-fourth of them.

Q. And superintended the work yourself?—A. Yes, sir.

Q. What year was that?—A. 1868.

Q. Were there any Mexicans in that neighborhood?—A. Plenty of them.

Q. Any Mexicans of prominence?—A. Yes, sir.

Q. Just name one or two of them?—A. There were Raphael and La Terio Dias and Carrasco; there were a great many there; I can hardly recall their names now.

Q. Do you remember who was consul or vice-consul of the Mexican Government at that time?—A. It seems to me that George Pritchard was.

Q. Were you acquainted with him?—A. Yes, sir.

Q. Did your business take you from your smelting works to San Francisco occasionally?—A. Our office was in San Francisco.

Q. Your headquarters were really in San Francisco?—A. Yes, sir. We shipped all our bullion to San Francisco.

Q. During how many years did you continue at the head of your smelting works and go between Cerro Gordo and San Francisco?—A. From 1868 to 1872.

Q. Did you ever have any conversation with Mr. Pritchard about your experience in Mexico?—A. I think not; never a word.

Q. Did you ever have any talk with either of the Dias brothers about your experience in Mexico?—A. Oh, yes; we often talked about it.

Q. Did you ever say anything about the fact that you had been mill-master at La Abra Company's mines?—A. I talked about it, yes, in Mexico, on my own account and others.

Q. What makes you say that you never said anything to Mr. Pritchard on that subject?—A. When I was in San Francisco I didn't have as much time to talk as I did when I was out in the country where I would meet other people.

Q. But you did have conversations with Mr. Pritchard occasionally?—A. Oh, yes; I talked with him.

Q. And you had been in Mexico as a miner, had you not?—A. Yes, sir. I never talked with him about Mexico or the mines, that I remember.

Q. Can you swear now that in all those conversations that you had with Mr. Pritchard you never said anything about your experience as a miner in Mexico?—A. Yes, sir; I can swear that I never did.

Q. Never a word?—A. To the best of my belief I never spoke to him about it.

Q. Can you remember what you did speak to him about?—A. I might have talked to him about how his family was, or something like that; that is about the amount of the conversation.

Q. But nothing more than such ordinary topics?—A. Nothing more than such ordinary topics.

Q. How long did you stay at Cerro Gordo?—A. From 1868 to 1871.

Q. Then where did you go?—A. I was in Arizona then for about three years and a half.

Q. And then where did you go?—A. Back to Cerro Gordo.

Q. What year did you return to Cerro Gordo in?—A. About 1874.

Q. Did you resume your old employment there at Cerro Gordo?—A. I did, for nine months.

Q. And then, after that, what did you do?—A. I then went to a new mine, named the Darwin mine, about 30 miles distant.

Q. How long did you remain there?—A. I remained there until 1876.

Q. Then where did you go?—A. I went to San Francisco, with the intention of coming on to the Philadelphia Centennial.

Q. Did you carry out that intention?—A. No, sir.

Q. Where did you go?—A. I staid in San Francisco until I got broke and couldn't come.

Q. How long was that?—A. That was from New Year's Day 1876, for about eight months.

Q. Was Mr. Pritchard still vice-consul for Mexico at that time?—A. I don't know; at that time I didn't call on Mr. Pritchard, and probably never saw him.

Q. Did you call at the Mexican consulate then?—A. I never was in the consulate office.

Q. After that where did you go?—A. After 1876 my life was a terrible one. I went out into Nevada and took charge of a mill there for a time, and from there I went to Salt Lake.

Q. How long did you stay in Nevada?—A. I was there four or five months, as long as I could stand it in the mill. From there I went to Salt Lake.

Q. How came you to lose your son's letter about the papers and the trunk?—A. I didn't consider it of any value and tore it up.

Q. Did you know you were coming here to testify?—A. Yes, sir.

Q. Do you mean to say to this committee that, knowing you were coming here to testify, you tore up a letter that showed that the memorandum that you kept about your assays at this mine had been destroyed by fire?—A. Had been burned up.

Q. Do you mean to say that to the committee?—A. I mean to say that that letter is destroyed; yes, sir.

Q. My question was whether you mean to tell the committee, when you knew that you were coming here to testify in regard to this La Abra case, you tore up a letter that informed you that the memorandum of your assays had been burned up.—A. At that time I was not positive that I was coming. I had been merely informed by the Mexican consul in San Francisco that my presence would be required here.

Q. How did he inform you?—A. By letter.

Q. Have you that letter?—A. I have.

Q. Produce it, please.

The witness produces a letter and hands it to Mr. Kennedy.

Senator DOLPH. I would suggest that you ask the witness to read that letter as an answer to your question, or consider it read and let it be printed, to save making it an exhibit. Let it appear in the printed testimony.

The following is the letter referred to:

[Correspondencia Particular Del Consul-General De Mexico. Alejandro K. Coney, 604 Clay street, San Francisco, Cal.]

DECEMBER 28, 1888.

DEAR SIR: It being necessary, in the interest of justice, that your testimony be heard by the committee of Congress in the matter of the "Abra" claim, your expenses to Washington and back will be paid, as also during your stay at the capital. Will you kindly answer at your earliest convenience, and oblige,

Yours very truly,

A. K. CONEY.

Mr. A. B. ELDER,
Santa Clara.

By Senator DOLPH:

Q. Those words "Correspondencia Particular Del Consul-General De Mexico, Alejandro K. Coney" are a printed letter-head?—A. Yes, sir.

By Mr. KENNEDY:

Q. Did you make any reply to that letter?—A. I did.

Q. In writing?—A. Yes, sir; I replied to him—

Q. I do not ask you what you said in the letter. Your reply was in writing?—A. Yes, sir.

Q. What is your son's address, the one from whom you received the letter in regard to the burning of the papers?—A. Lone Pine, Inyo County, Cal.

Q. Where were you when you received that letter?—A. I was in Santa Clara County.

Q. How far from Lone Pine?—A. About 200 miles.

Q. Just give us your son's name.—A. Edward Elder.

Q. And his post-office address.—A. Lone Pine.

Q. You said after you left Salt Lake you went to Arizona; how long did you remain in Arizona?—A. One month, and then went to Leadville.

Q. How long did you remain there?—A. About two years.

Q. From Leadville where did you go?—A. I went to Socorro, N. Mex.

Q. How long did you stay in Socorro?—A. About two years in Socorro.

Q. Then where did you go?—A. To Tucson, Ariz.

Q. What were you doing at Socorro?—A. I was running smelting works.

Q. What were you doing at Tucson?—A. I was superintendent of a mining company that was in Sonora.

Q. Give us the names of the officers of that company at Tucson.—A. It was a company in Chicago, the chief officer of which was Captain —; I can't think just now of his name.

Q. Where were the headquarters of that company?—A. In Chicago.

Q. Give us the address of any officer at headquarters.—A. I can't give the number or the address.

Q. Well, the name.—A. I can't think of this captain's name; he was the principal owner of it.

Q. Yes, but I want the name of one of the officers of the company.—A. He was the president.

Q. Can you think of the secretary's name?—A. No, I can not.

Q. How long were you in their employ?—A. Well, I was nearly a year in their employ.

Q. Where did you last see that trunk that had your papers in it?—
A. At Lone Pine.

Q. Where did you last see it?—A. I saw it at Lone Pine.

Q. How long ago?—A. That was about 1878.

Q. Do you mean to say that those assays that you made after you had reduced the eight or ten tons of ore for Mr. De Lagnel were made immediately after that reduction?—A. Yes, sir.

Q. What was the value of the result of the reduction of the eight or ten tons of ore to which you testified yesterday?

Mr. FOSTER. Wait a moment. Fix the question accurately. My recollection is that he did not say eight or ten tons.

Mr. KENNEDY. The witness can state.

Mr. FOSTER. My recollection is that he said ten tons of second-class ore and about a ton and a half of first-class ore.

Mr. KENNEDY. That is my recollection of it also.

Mr. FOSTER. Then let it appear.

Q. What was the value of the result of that reduction?—A. I did not assay that bullion after it had been refined, and therefore I know nothing of its value. It was refined, not at our office, but at San Dimas, about 12 or 14 miles distant.

Q. But did you not testify that you never had anything to do with the refining?—A. I never did have anything to do with the refining, and I couldn't give the value of that bullion unless I had assayed it.

Q. You saw it?—A. I saw it as I handed it to him as it came from the retort.

Q. Then you had some idea of its value?—A. I might have guessed at its value.

Q. Did you guess at its value?—A. I don't know whether I did.

Q. If you had guessed, what guess would you have made?—I don't know.

Q. How big was it?—A. I don't remember.

Q. Did not that piece of bullion have a remarkable history?—A. Nothing remarkable that I know of.

Q. Did you not testify that De Lagnel took it with him to Mazatlan and tried to escape the custom-house?—A. Yes, sir; but that is nothing uncommon to have a piece of bullion seized.

Q. Do you mean to say that that had happened often in your experience of this company's work?—A. No, sir; that is the only piece of bullion I ever took to Mazatlan. That is the only time it could possibly have occurred.

Q. That is my understanding. Did you not testify that you helped to recover that piece of bullion?—A. Yes, sir.

Q. And sent it to New York?—A. Yes, sir.

Q. And now do you testify that you can not remember anything about it so as to give an idea of its value?—A. I know that we gave a value to the custom-house officer.

Q. What was that?—A. We rated the value at \$250.

Q. How much did you have to pay to get it out?—A. Two hundred and fifty dollars.

Q. Do you mean to say that the custom-house charged you the whole value of the bullion?—A. I don't think that was the whole value.

Q. What do you think? That is what I am trying to get.—A. I don't know what the value of it was, and therefore I don't propose to testify to its value; I don't know how much it was.

Q. You just said—A. I know that it was more than \$250.

Q. Do not argue with me. You just said—

The CHAIRMAN. The witness may complete his answer without an interruption from the counsel. The counsel has a right to cross-examine, but when the witness has not concluded an answer I do not think it is proper that he should be interrupted.

Mr. FOSTER. I have had to interpose once or twice before in order to ask that the witness be allowed to finish his statement before being interrupted.

Q. You just said that you did not think \$250 was its full value. Now how much more than \$250 do you think it was worth?—A. I don't know how much more than \$250 it was worth. I never assayed bullion, and therefore I could not tell.

Mr. FOSTER. If you are seeking for information, if you will look at one of Mr. Garth's letters you will find it.

Mr. KENNEDY. I know what the record shows about the value of that piece of bullion; but I am asking the witness.

The WITNESS. We always have to ascertain the value of bullion as we do of ore.

Q. (By Mr. KENNEDY.) How many piles of ore did you take out of the large piles when you made those assays, after reducing the 10 tons of ore?—A. I took one from each pile.

Q. And how many big piles were there?—A. I think there were five.

Q. So that you had five little piles of ore to be assayed?—A. Yes, sir.

Q. What was the result of those assays?—A. The result of those assays was from 3 to 5 ounces per ton.

Q. And what ore was that?—A. That was ore from La Luz and the Rosario, I think.

Q. Did you not assay any of El Cristo ore?—A. El Cristo I had assayed from mill runs before.

Q. I understand you that you did not then assay any El Cristo ore after you reduced the 10 tons?—A. Oh, yes, I assayed that every time I crushed.

Q. How did those assays run?—A. They were 10½ to 11 ounces to the ton.

How much money did the company owe you at the time they settled with Exall?—A. I am not prepared to say how much they owed me at that time.

Q. Do you remember?—A. No.

Q. You said you had waited some considerable time for Exall's return from Durango?—A. Yes; but I don't remember.

Q. And that when he came back he paid you?—A. Yes; but I don't remember how much it was.

Q. How much was your salary per month?—A. I am not positive as to that. I am not positive as to what my salary was; I couldn't swear to it.

Q. Had you any agreement with the company?—A. I had an understanding before I went there as to what my wages should be.

Q. What was that understanding?—A. I couldn't swear to what it was; whether it was \$150 or \$200, or more or less. It was not less than \$200; probably about \$200 a month; I am not positive as to that.

Q. How many months' pay were due to you at the time you had this settlement with Exall?—A. I don't know.

Q. Can you not give the committee any idea?—A. No, sir.

Q. Do you mean to say that you do not know what your salary was?—A. I don't remember what my salary was; no, sir.

Q. How were you paid; I mean in coin, or in checks, or drafts?—A. I was paid in coin right at the place.

Q. Do you remember how many times you were paid?—A. Oh, no; I couldn't tell you that. Probably I drew some every month; I can't tell.

Q. Have you no recollection on that subject?—A. Not at all, not a bit; I couldn't testify to any amount.

Q. You have had some correspondence with Mr. Lines?—A. Yes, sir.

MR. KENNEDY (to Mr. Foster). Have you those original letters which I gave you notice this morning to produce?

MR. FOSTER. Please state what notice it was, that it may go on record.

MR. KENNEDY. They were the letters of this witness, addressed to Robert B. Lines, and printed as part of Mexico's new evidence on pages 113 to 115 of Executive Document No. 274, H. R., 49th Congress, 1st session.

MR. FOSTER. I want it to appear of record that Mr. Kennedy has made a demand on us for the production of the original letters.

Senator DOLPH. I understand.

MR. FOSTER. I have them.

MR. KENNEDY. Will you produce them?

MR. FOSTER. Yes, sir; with the greatest promptness. In answer to you written notice I produce the letters to the committee.

Senator DOLPH. They may be submitted to the counsel for the company. Of course the control of the letters will remain with the counsel for Mexico until further directed.

MR. KENNEDY. That is my understanding.

Senator DOLPH. They are now simply produced for inspection.

MR. KENNEDY. That is all.

MR. FOSTER. You desire to authenticate the printed copies?

MR. KENNEDY. Precisely. I want to say that eight letters alleged to have been written by this witness to Mr. Robert B. Lines have been printed in the compilation of new evidence, so called, submitted by the Mexican Government to the Government of the United States, in its application for a re-opening of La Abra award, and before examining this witness upon the letters as printed, I thought it was proper, for the sake of the witness and for the sake of all parties concerned, that we should have an opportunity of comparing the originals with the printed copies.

Senator DOLPH. If there is no objection, the letters can be submitted for examination of counsel, and then shown to witness and identified, and then they can be compared with the printed copies. Of course the originals will not be directed to be filed as part of the testimony without due consideration, except with the consent of counsel for Mexico in charge of them.

MR. KENNEDY. We could not ask that, Mr. Senator. We understand that by a previous ruling of the subcommittee every official publication concerning this matter is in evidence before the committee, and, as these letters have been printed, they are in that sense already before the committee. But, as I said before, previous to examining the witness I desired to have an opportunity to have him verify the letters, and then to have them compared with the printed copies.

Q. I show you this letter, dated November 12, 1877, at Lone Pine, Inyo County, Cal., and ask you to examine the signature and body of it and then say whether you wrote it.—A. I evidently wrote that letter.

Q. I will ask you to read the letter just shown you, and then we will compare it.—A. (Reading.)

LONE PINE, INYO CO., CAL., Nov'r 12th, 1877.

KIND SIR: I see that the La Abra M. Co., of Tayoltita, have been awarded damage against the Mexican Government. I built their mill and worked their ores; was there

after they left; I know all about their misfortunes, and they have misrepresented the affair very much. I think I can be of valuable service to you. I landed in Mazatlan May 9th, 1861; left there Dec'r 24th, 1867.

Hoping, &c.,

Yours, truly,

A. B. ELDER.

Q. I show you a letter dated at Lone Pine, Cal., December 6, 1877, to Robert B. Lines, and ask you to examine it, and say whether you wrote it.—A. Yes, sir; I wrote it.

Q. I will ask you to read the letter, if you please.—A. (Reading:)

LONE PINE, CAL., Dec'r 6, '77.

MR. ROBERT B. LINES, Att'y:

DEAR SIR: Yours of Nov. 23 came to hand yesterday, and in answer I have to say that I built most of the mill. I was the assayer. I worked all the ores worked by the La Abra Co. I think it doubtful if Mr. Exall worked any ores at all. I can testify truthfully as to what the ores assayed. No such assays as you say Mr. E. testified to; will be difficult to impeach my evidence. I have a letter of recommendation from Mr. Chas. E. Exall as to my efficiency as an assayer, &c. Mr. E. was there when I left, but he was only in charge of the hacienda. My evidence would evidently defeat the La Abra Co.

Yours, truly,

A. B. ELDER.

Q. Now, I show you a letter dated at Lone Pine, Cal., December 26, 1877, addressed to Robert B. Lines, and ask you to examine it and say whether you wrote it.—A. Yes, sir; I wrote it.

Q. Please read it.—A. (Reading:)

LONE PINE, CAL., Dec'r 26, 1877.

ROBERT B. LINES, Att'y:

DEAR SIR: If you think it worth my visiting your city, and that you and I can make anything out of the La Abra Co. affair, all of which is false, write me. There is one thing certain—the La Abra Co.'s claim is a grand steal, and I can show it to be such. I did not fare *first class* at the hand of the Mexicans while in Mexico, and fared much worse than the La Abra Co.; nor do I intend to give either party the benefit of my evidence unless there is something in it.

Hoping to hear from you,

I am yours, dear sir,

A. B. ELDER.

Q. I show you a letter dated Lone Pine, Cal., January 4, 1878, and addressed to Robert B. Lines, and ask you to examine it and say whether you wrote it?—A. Yes, sir; I wrote that.

Q. Please read it?—A. (Reading:)

LONE PINE, CAL., Jan. 4, 1878.

ROBERT B. LINES,

Att'y, 604 F st., Washington, D. C.:

DEAR SIR: Yours of Dec'r 23, '77, came to hand on the 2d inst., and contents noted. I do not believe that Exall was ever imprisoned while in Mexico. They (the La Abra Co.), were not driven from the country nor from the co.'s mines. 'Tis my impression that Exall left for the reason the co. would not send money to pay his wages; another reason, there was nothing doing there, and not much property to look after. The ores that I condemned by assays were not worth a cent, and I venture they are undisturbed to this day. The mill was very ordinary, and \$60,000 is *way over*. The serving of notices to pay forced loans were common. I owned and worked a fine mine 12 miles from Tayoltita; they often levied their loans; we never paid them, and were seldom mistreated; never by the officials. The La Abra Co. evidently left Mexico because they were inexperienced men in mining, and Don Juan Castillo got the best of them in the sale of the property at \$50,000. They *run reckless*, spent money wild, packed 300 cargoes of ore per day to the hacienda; said ore was supposed to go 40 marks—\$320 per ton. When I started the mill—the stamp—in an hour I was assaying I found everything terribly overrated; there was about 250 tons of ore from the El Cristo mine that would barely pay expenses for working. Out of nearly 500 tons from other mines that instead \$320 per ton gave assay of \$12.50. This was from the La Luz and La

Abra mine. The El Cristo ores I worked assayed \$11.50. I worked ten tons, and assayed when Col. De Lagnel became disgusted and sailed for New York. I worked all the El Cristo, got my wages out of the proceeds, and left for the reason there was nothing more to be done; the mines were long ere this considered a failure. As to what De Lagnel would testify to would be in this shape: Question. What did the ores of the La Abra Co. assay?—A. Well, I heard Mr. Elder, my mill-man, say they went so and so. He is very candid and truthful, but he cannot assay. I was the only man on the hacienda who could assay, and it was I who sunk the ship of the La Abra Co.; Exall knew nothing of assaying. It occurs to me I gave him some idea and some few working and lessons. When Gen. Thos. J. Bartholow was sup't I think he must have been aware of the quality of the ores. If you can find out C. H. Exall's P. O. address, I wish you would be kind enough to write to me.

Hoping, etc., yours, dear sir,

A. B. ELDER.

Q. I also show you letter dated Lone Pine, Cal., January 29, 1878, and addressed to Robert B. Lines, and ask you to examine it and say whether you wrote it.—A. Yes, sir. I wrote it.

Q. Please read it.—A. (reading:)

LONE PINE, Cal., Jan. 29, 1878.

ROBERT B. LINES, Atty:

DEAR SIR: Yours of the 17th inst. is at hand, and contents noted. Exall's letter of recommendation is dated Tayoltita, Dec'r 1st, 1867. It certifies as to my ability, etc.; that I had been employed as a beneficiator, and assayer, &c. I have a memorandum of assays made in August, Sept., and Oct., 1867; they are of ores from all the mines the co. worked. As to my going to your city, the actual cost of fares would be \$500, and I am sup't of a mining and smelting works at a salary of \$300 per month; it would take the best part of two months, at least; would have to leave for two months, which would make it \$1,100. As I was assayer for the co., would not my evidence be conclusive as to the value of the ores, also as to the final abandonment of the works? 'Tis evident that we left for the reason there was nothing to be done. Don't you think it would be well to ascertain how things are at Tayoltita, whether the old piles of ores are there as formerly? In one month from San Francisco, the trip could be made at a cost of about \$300. Specimens of the ore could be had, and many thing that would be a stunner to them. Hoping for your success, I remain,

Yours, truly,

A. B. ELDER.

Q. I show you a letter dated Lone Pine, Cal., March 4, 1878, addressed to Robert B. Lines, and ask you to examine it and say whether you wrote it.—A. Yes, sir; I wrote it.

Q. Please read it.—A. (Reading:)

LONE PINE, CAL., March 4, 1878.

MR. ROBERT B. LINES:

DEAR SIR: Yours of Feb. 17, 1878, came to hand on the 1st inst., and in answer I will say that I will not at present dispose of the memoranda and letter you speak of. If the Mexican Government cannot afford to pay its witnesses for time and traveling expenses, it will not get my evidence.

With all due respect, my dear sir, I am,

Yours, truly,

A. B. ELDER.

Q. Now I show you a letter dated Lone Pine, Cal., April 8, 1878, addressed to Robert B. Lines, attorney, and ask you to examine it and say whether you wrote it?—A. I wrote that.

Q. Please read it.—A. (Reading:)

LONE PINE, CAL., April 8, 1878.

ROBERT B. LINES, Atty, 604 F st., Washington, D. C.:

DEAR SIR: In a letter from St. Louis, of date March 24, 1878, they are trying to persuade me that the ores of the co. were very rich, from \$1,000 to \$1,800, and as high as \$6,400 silver and \$600 gold. Through some party, to me unknown, I am offered a good show to go to China to look after a silver mining co.'s affairs. How is the investigation getting along? I will be here for three months yet; after that time, from appearances, I will leave here.

Hoping for your success, I remain,

Yours,

A. B. ELDER.

Q. Now I show you a letter dated December 8, 1878, at Grantsville, Nye County, Nev., and ask you to examine it and say whether you wrote it.—A. Yes sir; I wrote that.

Q. Please read it.—A. (Reading):

GRANTSVILLE, NYE CO., NEVADA, Dec. 8th, 1878.

ROBERT B. LINES, *Att'y, Washington, D. C.*:

DEAR SIR: How is La Abra award getting along? I see in dispatches from your city that the money is being kept back. Do not forget that I can be of service to the Mexican side if they will be liberal. Please let me know how you are getting along.

Hoping for your success, I remain,

Yours, dear sir,

A. B. ELDER.

Q. Now, Mr. Elder, what did you do with the letters that you received from Mr. Lines?—A. I probably destroyed them. I don't know anything about them.

Q. When did you last see them?—A. I probably saw them last when I received them from him.

Q. Your impression is that you immediately destroyed them?—A. I think I did. I never saw the letters again, and never laid them away.

Q. Do you mean to say you would begin a correspondence on a matter of this sort and destroy the attorney's replies as fast as you received them?—A. Just as like as anyway; that is evidently so, because I have never seen the letters since.

Q. Do you not recollect what you did with them?—A. No, sir; I don't recollect what I did with them.

Q. Can you not refresh your recollection?—A. Not a bit; I am sure that there is no refreshing my memory upon that subject.

Q. Do you remember whether you burned them, or tore them up?—A. I tore them up.

Q. What makes you think you tore them up?—A. That is my custom. I hardly ever keep any letters.

Q. Are you positive that you destroyed all those letters?—A. Yes, sir.

Q. You swear that you tore them up?—A. I don't know anything about where they are.

Q. That is not my question. My question is whether you swore that you tore up all of these letters of Mr. Lines.—A. I say I don't know anything about that.

Q. You mean that you do not know anything about where they are now. I understand that, but my question is whether you swear that your best recollection is that when you received those letters you tore them up?—A. Yes, sir.

Q. In regard to your salary as mill-man at Tayoltita, was your salary greater or less than the salary of \$300 a month which you mention in one of these letters which has just been read?—A. I think my salary was less.

Q. How much less?—A. Oh, I don't know how much less. Smelting works are much worse than silver mills for working.

Q. You have testified that you have no exact recollection of the salary that La Abra Company paid you; and you have now testified that you think, or are sure, that it was less than \$300 a month. I ask you how much less?—A. I don't know how much less; I don't know what my salary was; I don't remember anything about it.

Q. Did you have any written agreement with the company?—A. None at all.

Q. Did you keep any account with the company?—A. I presume I did.

Q. Did you make any entries in the memorandum that you say has been destroyed by fire, or in any book or paper, about your salary?—A. I don't remember of ever making any entries.

Q. And you swear that you have no recollection of the amount of money that Mr. Exall paid to you after he returned to Durango?—A. Yes, sir.

Q. While you were at Lone Pine in 1870 and 1871, and after you returned, were you a man well known in the community?—A. Yes, sir.

Q. So that if anybody had wanted to find you he would have had no difficulty in doing so?—A. Yes, sir.

Mr. LINES. What community?

Mr. KENNEDY. The community where he lived. I said Lone Pine.

The WITNESS. While I was there I could be found very easily if anybody had wanted me.

Q. And you were at Lone Pine, I think you said, from 1870 to 1872?—A. From 1868 to 1872, at Lone Pine and Cerro Gordo; they are all about the same.

Q. How far apart are they?—A. About 20 miles. Cerro Gordo is up on the mountain and Lone Pine is in the valley.

Mr. LINES. From 1868 to 1871, is my recollection of what he said; I put it down.

Mr. KENNEDY. The witness may state what the fact is in regard to the time that he spent at Lone Pine and Cerro Gordo.

The WITNESS. From 1868 to 1871.

Q. And you returned to Lone Pine or Cerro Gordo when?—A. I returned to Cerro Gordo in 1874 from Arizona.

Q. And did I understand you to say that you knew the Mexican vice-consul, Mr. Pritchard, during all that time?—A. I knew him when I first went to San Francisco. I knew him from the time I first went there.

Q. Tell us when you first got acquainted with him.—A. I think it was about 1860.

Q. Where was that?—A. San Francisco; that is, I knew this man George Pritchard. I don't know that he was all the time vice-consul.

Q. Do you remember clearly when he was vice-consul?—A. No; I don't remember.

Q. Were you ever at his office?—A. No; I never was.

Q. What makes you think he was vice-consul?—A. I had a room at his mother's house, and that is the way I got my information.

Q. Did he live with his mother?—A. Yes, sir.

Q. When did you have a room at his mother's house; what year?—A. I can't tell you what year it was.

Q. Was it while you were at Lone Pine?—No, sir; it was prior to the time when I went to Mexico in 1861.

Q. When you returned from Mexico when did you see him?—A. I don't know that I ever saw him after I returned, more than to pass him on the streets.

Q. And when was it that you saw him on the street?—A. I don't remember what year it was.

Q. Was it while you were engaged in smelting at Lone Pine?—A. I don't remember.

Q. Did you ever talk with either of the Dios Brothers about what you had done in La Abra mine?—A. I don't know that I did.

Q. I want to examine you somewhat in detail in regard to these letters of yours. You say in your letter of November 12, 1877, that you—

See that the La Abra Mining Company of Tayoltita has been awarded damage against the Mexican Government.

Q. Where did you see that?—**A.** I saw that in a newspaper.

Q. Now, you say in the same letter:

I built their mill and worked their ores.

Is it a fact that you did build their mill?—**A.** I did the greater portion of the building of that mill.

Q. Just describe the condition of the building when you landed at Tayoltita.

Mr. FOSTER. Arrived, you mean.

Mr. KENNEDY. Arrived.

A. Well, the water-wheel was up and the battery was partly in place.

Q. How about the foundation?—**A.** The foundation was all in place. I helped to put on the cams; helped to put the pans in place; helped to put on the roof, fix up the concentrators, and put on the tightening pulleys that tighten the belts to run the fans.

Q. Was the mill a frame building?—**A.** No, sir; it was of stone and brick. There were pillars put up.

Q. Were those pillars there when you arrived at Tayoltita?—**A.** No, sir.

Q. Who built those pillars?—**A.** They were built by a brick-mason, a Mexican that generally hangs around there.

Q. Do you know who superintended the brick and stone work for the company; what his name was?—**A.** No, sir.

Q. Do remember such a man?—**A.** Oh, there was a boss mason there.

Q. That is what I am after. What was the boss mason's name?—**A.** I don't know; that is out of my business.

Q. Did you never get acquainted with him?—**A.** No.

Q. You were working on the same building?—**A.** They were Mexicans. I didn't pay any attention to them.

Q. Was the boss mason a Mexican?—**A.** I can't say as to that; I don't remember anything about it.

Q. Do you mean to say you can not remember any of the names of the men that worked with you at that building?—**A.** I can't remember the names of the Mexicans, because those are very peculiar names.

Q. No, but I ask you whether the boss mason was a Mexican?—**A.** The boss mason around the building was a Mexican, and also around the ditch; they were Mexicans.

Q. And you do not remember their names?—**A.** Not one of them.

Q. You say in that letter:

I think I can be of valuable service to you.

What did you mean by that?—**A.** That my evidence in the matter would show that I had worked the ores, etc., and that I did not consider that the company had sustained any great damage.

Q. Now you say in that same letter:

Was there after they left.

What did you mean by that?—**A.** My understanding of it was certainly that the company's representatives had all left.

Q. So that is why you said a moment ago that you did not think that Exall was the superintendent of the company?—**A.** Yes, sir.

Mr. FOSTER. With authority from the company, he said.

Mr. KENNEDY. Yes.

Q. When you said "was there after they left," did you mean to say that you were there after La Abra Company had ceased to be represented at Tayoltita?—A. That is the way I took it, that after De Laguel left there was not any representative there more than myself. I consider everybody was workmen about the place.

Q. And yet you testified that Mr. Exall went to Durango with the bullion, and came back with the coin, and paid you your wages?—A. Yes, sir.

Q. And you still say you do not remember what your salary was or what Exall paid you?—A. That is what I said.

Q. Now in your second letter you say that:

I built most of the mill.

Which statement is correct, the one in your first letter or in your second letter?—A. I completed the mill and worked on it and run it.

Q. What did you mean when you said—

Will be difficult to impeach my evidence?

A. I meant that it would be difficult to impeach my evidence because I expected to tell the truth.

Q. You have testified that the ore that you worked assayed \$11.50 or \$12 a ton, have you not?—A. Yes, sir.

Q. Will you state again how many tons of ore?

The WITNESS. Excuse me.

Mr. KENNEDY. Certainly.

The WITNESS. I always assay by the ounce. Now, I did not assay as dollars; we never assay by dollars; we always assay by ounces; ounces are worth more than dollars.

Q. Do you mean to say now that the ore that you reduced in the mill assayed from 11 to 12 ounces a ton?—A. From 10½ to 11½ ounces was about the way the assays run—10½ to 11½ ounces per ton.

Q. Now you have testified that while you were mill-man you reduced about 250 tons of ore, have you not?—A. Yes, sir.

Q. And you have testified that the receipts from the reductions amounted to about \$4,000, as nearly as you could recollect?—A. Somewhere near \$4,000.

Q. Will you tell us how it is that you fixed that sum? Mention some of the circumstances leading you to conclude that that was about the amount.—A. Well, 100 tons of ore would make 11½ ounces; carrying a fair amount of gold, would make it value probably from \$15 to \$18 per ton; 250 tons of it would produce—we get 90 per cent. of the contents of the ore, and it would make very near \$4,000.

Q. How many times did Mr. Exall go to Durango with bullion while you were at the mill?—A. I couldn't tell you.

Q. Have you any recollection on that subject?—A. I don't recollect. I never was impressed much with his going, except the last time.

Q. And what impressed that on your mind?—A. I was expecting to get the money wherewith to settle up with the company and leave the country.

Q. How much money were you expecting to get?—A. I don't remember what the amount was.

Q. Who else was paid at that time?—A. I don't remember who else was paid.

Q. You testified that Mr. Exall paid other men when he came back?—A. Yes, sir; but I don't remember who they were.

Q. What men were there at that time in the employment of the com-

pany?—A. At that particular time I don't think there was anybody, unless it was Mr. Granger and myself.

Q. Then what made you say, if you did say it, that when Mr. Exall returned he paid other men?—A. There were men there waiting his return, and he paid them.

Q. What men were those?—A. I don't remember who they were.

Q. In your third letter to Mr. Lines you say:

If you think it worth my visiting your city, and that you and I can make anything out of the La Abra Company affair, all of which is false, write me.

How did you think that you and Mr. Lines could make anything out of this affair?—A. I don't know really what I meant by that unless it be that if they would pay me as much as I was getting for my wages I could visit this city and spend a month or two; something like that.

Q. At that time, December 26, 1877, did you have the memorandum book in your possession?—A. I don't know whether I had or not.

Q. Did you ever offer to sell any documents or books or papers or memoranda of any kind to Mr. Lines; or to any agent of the Mexican Government?—A. No, sir; I don't know that I ever did. I don't think I did. I never had any one to offer me anything for them.

Q. Did you ever put any value upon any information that you had?—A. No, sir.

Q. Never at all?—A. Never.

Q. Never fixed any sum for which your testimony could be had?—A. No, sir.

Q. Now in that letter, the third one, you say that you do not—

Intend to give either party the benefit of my evidence unless there is something in it.

What evidence could you have given that would have been of benefit to either party?—A. Well, I don't know why I wrote that; but I never could have given in any evidence that would have been anything different from what I have given here. If La Abra Company could have made anything out of that they would have been welcome to it, but I never could see where the evidence I would give would be any benefit to La Abra Company.

Q. You do not say here that La Abra Company would have been welcome to any evidence you could give, but you say—

Nor do I intend to give either party the benefit of my evidence unless there is something in it.

Now, my question is how could any testimony or evidence that you had to give be of any benefit to La Abra Company?—A. I don't think it would have been any benefit to La Abra Company.

Q. Where did you go when you came to Washington?—A. I went right straight to the hotel.

Q. Where did you go after that?—A. To bed.

Q. Whom have you visited here?—A. I have visited—

Q. Did you go to see Judge Shellabarger?—A. I was in Judge Shellabarger's room.

Q. What did you go there for?—A. Because from the reading of the telegram that I received—I went for information as to whether he was representing the party that had summoned me or not.

Q. What made you think he was representing the party that summoned you?—A. From the way the telegram read I supposed that was the party.

Q. Had you not already in your possession a letter, which has been put in evidence here, from the Mexican consul, notifying you that your

testimony would be taken in Washington?—A. Yes, sir; but after that I got a telegram from the Sergeant-at-Arms summoning me to appear in the case of La Abra Company against Mexico, or about to that effect, and that, I supposed, came from La Abra Company and not from the Mexican consul.

Q. Had you any correspondence with anybody connected with La Abra Company after you left Mexico?—A. I once received a letter from General Bartholow.

Q. Have you that letter?—A. No, sir.

Q. When did you receive it?—A. It was shortly after I returned to San Francisco, or about that time.

Q. When did you return to San Francisco?—A. In 1867, on New Year's Day. That was January, 1868, rather; but I got in there that morning.

Q. What did you do with that letter you received from General Bartholow?—A. I tore it up probably and threw it down. I made no file of these things and did not store them away for future reference.

Q. After receiving that letter from General Bartholow, did you ever receive any letter from any officer of La Abra Company?—A. I think not.

Q. Are you positive of that? I want you to think carefully before you make your final answer.—A. (After a pause.) I never did.

Q. Then, if you never received any letter from any officer of La Abra Company after New Year's of 1868, what was it that made you think that perhaps it was La Abra Company that had subpoenaed you to come here to testify?—A. I thought so from the way the dispatch read.

Q. Did you know of any evidence that you could possibly give that would be of assistance to La Abra Company?—A. No, sir.

Q. Did you know that your letters to Mr. Lines had been printed in this book?—A. No, sir.

Q. Did you know that La Abra Company, or any of its agents or attorneys, had been informed as to the correspondence that you had had with Mr. Lines?—A. I did not.

Q. Now, you say in the letter of January 4—

I owned and worked a fine mine 12 miles from Tayoltita; they often levied their loans; we never paid them and were seldom mistreated; never by the officials.

Did you not consider it mistreatment that the justice of the peace, when the miners stole your ores, would not prosecute them?—A. Well, I didn't consider much about it. I thought that probably the best way for me to do would be to close down and not work the mines any more until such time as I would be better prepared to attend to them.

Q. What did you do with the mine?—A. Just left it alone; left it there.

Q. You did not try to sell it?—A. No, sir.

Q. Do you mean that you just let it go, and went yourself?—A. Yes, sir.

Q. And that you have never had anything more to do with it since then?—A. I have never had anything more to do with it. Whenever you leave a mine lie there so long it is gone.

Q. I know. What was the capital stock of the company that owned that mine?—A. It was \$500,000.

Q. You sold that mine to the company?—A. No, sir.

Q. I understood you to say in your direct testimony that you owned a mine and that you organized a company?—A. I got hold of the mine and went to San Francisco and organized a company.

Q. When was that?—A. That was in 1862.

Q. You say that you got hold of the mine; what do you mean by that?—A. I got that mine by lease.

Q. What title did the company that you organized acquire to the mine?—A. We had merely a contract, a lease.

Q. That is, you turned over the lease that you had obtained to the company that you organized?—A. Yes, sir.

Q. How much of that capital stock of \$500,000 was paid in?—A. Oh, I don't remember that.

Q. How much of the stock did you own?—A. I owned—I think it was one-eighth.

Q. And for what was that issued to you? What was the consideration that you gave for the stock?—A. I was the originator; I had the lease; I got that much of the company's stock, and I went back as a mechanic on wages at \$200 a month and furnished, expenses.

Q. The balance of the stock, how was that paid for?—A. I don't know how the others paid for it. I was neither the president, secretary, nor an officer of the company. I was merely the mill-man.

Q. Yes, but your stock took its value largely from what was paid into the treasury of the company, and I ask you whether you know what was paid into the treasury of the company?—A. Well, I don't know, sir.

Q. Can you not give the committee any idea?—A. No, sir.

Q. Would you have taken the stock unless you had believed that some part of the capital was actually paid in?—A. I know that there was money in the treasury. We paid cash for everything that we got.

Q. You do not know at what rate the stock was taken?—A. No, sir; I do not.

Q. Do you remember what the shares were for, each?—A. I think par value was \$100.

Q. And you do not know what percentage of par was paid for the stock?—A. No, I don't.

Q. Now, you say in the same letter, the one of January 4, 1878:

They run reckless, spent money wild; packed 300 cargass of ore per day to the hacienda.

How long did they keep that up?—A. As long as the ore lasted.

Q. How long did the ore last?—A. Oh, I don't know; until they had brought down whatever there was at the mines.

Q. What is your recollection of the amount of ores of all sorts that were on the patio when you arrived at Tayoltita?—A. I don't know anything about what was there when I arrived. I am only speaking now—I have never proposed to speak of anything only when I saw it.

Q. When you wrote of the company packing 300 cargass of ore per day to the hacienda, what period did you have in your mind?—A. I don't know that I had any period in my mind, anything more than I supposed they packed ores as long as there was any at the mines to pack.

Q. This letter was written ten years after you left Tayoltita, and you say in this letter that—

They run reckless, spent money wild; packed 300 cargass of ore per day to the hacienda.

And I ask you what period of time you had in your mind when you were giving Mr. Lines your recollection of the facts as to the reckless way in which the company packed their ore?—A. I don't know that I had any period of time in my mind.

Q. You say in this same letter :

I worked 10 tons and assayed, when Colonel De Lagnel became disgusted and sailed for New York.

In your testimony yesterday you said that you worked 10 tons of second class El Cristo ore, and that you took from $1\frac{1}{2}$ to 2 tons more from the pile of first-class ore. Now I ask you which statement is true—the one you made yesterday, or the one you made in your letter to Mr. Lines in 1878.

Mr. LINES. I think, Mr. Chairman, I shall have to object to that. He is trying to involve the witness in a contradiction.

Mr. KENNEDY. This is a very important point—

Senator DOLPH. Let the question be read.

Mr. KENNEDY. I was answering the objection of Mr. Lines.

Mr. LINES. The Senator can pass upon it now. He knows what the question is. The objection is as to the form of the question.

Senator DOLPH. Let the question be read.

The stenographer read the question, as follows :

You say in this same letter : "I worked 10 tons and assayed, when Colonel De Lagnel became disgusted and sailed for New York." In your testimony of yesterday you said that you worked 10 tons of second-class El Cristo ore, and that you took $1\frac{1}{2}$ to 2 tons more from the pile of first-class ore. Now I ask you which statement is true—the one you made yesterday, or the one that you made in your letter to Mr. Lines in 1878 ?

Senator DOLPH. I would not assume that both can not be true. I would not think that the contradiction is very material, if there is any. These letters now having come into the possession of the counsel, and appearing in the testimony, are statements made by the witness at other times, and I suppose the witness should have a reasonable latitude as to any contradiction which they may be supposed to contain.

Mr. LINES. He asks which statement is true; the one he made yesterday or ten years ago.

Senator DOLPH. They may both be true; so far as I can see. But I think that is fair latitude in cross-examination.

Mr. FOSTER. It will probably save time in arguing the case before the committee.

A. In order to answer that question intelligently I will say it was to make assays that I worked a ton and a half. I crushed 10 tons of that, and then to make an assay of the first class I crushed $1\frac{1}{2}$ or 2 tons; probably it was not weighed, but so much as was supposed to be in a wheelbarrow load. I did that in order to assay when I found that the first and second were the same grades of ore.

Q. Did the product of the second lot you took go into the product of the whole ?—**A.** Yes, sir.

Q. You have testified as to the overwhelming disappointment of Col. De Lagnel at the result of this first reduction at the mill. In this letter of January 4, 1878, you tell Mr. Lines that you worked ten tons, when Col. De Lagnel became disgusted and sailed for New York. Now I ask you why, if that reduction also included, as you swore to yesterday, one or two tons more of what was known as first-class ore, you did not say so in 1878 ?—**A.** I did not think it was necessary to give Mr. Lines the pounds or fractions in the matter. I was not on the witness stand then.

Q. What brought the additional fact to which you testified yesterday to your mind after you had made this written statement to Mr. Lines ?—

A. The fact of making assays, tests, of the whole lot of ores.

Q. No, you do not understand me. In 1878 you say that this reduc-

tion, which you have testified had such a terrible effect on De Lagnel involved 10 tons. Now, in your testimony yesterday, you say that it also involved 1 or 2 tons of ore that were classified as first class, and I ask you what has transpired between 1878 and yesterday to bring to your recollection the fact that it was more than 10 tons that you had reduced at that time?—A. Well, I wasn't making statements to Mr. Lines of just so many pounds. I don't know that there was anything very remarkable—

Q. Can you not answer my question, how it is that you remembered yesterday, after the lapse of ten years, that this first reduction involved 2 tons of No. 1 ore as well as the 10 tons of the second-class ore? What brought it to your mind?—A. I don't know as there is anything particular brought it to my mind.

Q. Did you have your memorandum book in which the assays were recorded in 1878?—A. I don't think I did.

Q. When was that book destroyed?—A. Oh, I don't remember anything about when it was destroyed.

Mr. FOSTER. What do you mean? Did he have it in hand, or was it in existence?

Mr. KENNEDY. Was it in his possession or control.

Mr. FOSTER. At the time he wrote this letter?

Mr. KENNEDY. That is it.

Mr. FOSTER. Let him answer with that understanding.

Q. (By Mr. KENNEDY.) Was that memorandum book in your possession or control at the time you wrote this letter in 1878?—A. It may have been.

Q. No; I ask you whether it was?—A. I don't know whether it was or not.

Q. Was that memorandum book destroyed in the trunk of which you have spoken?—A. It was.

Q. And you have testified that it was only two weeks ago that your son informed you of the destruction of those papers.—A. Yes, sir.

Q. Now, where was that memorandum book in 1878?—A. I presume it was among those papers.

Q. At Lone Pine?—A. At Lone Pine.

Q. Do you remember seeing it after that?—A. No.

Q. Did you ever see it between the time that you last saw it at Lone Pine and the time that you got the letter from your son?—A. No, sir.

Q. When did your son say that those papers had been destroyed?—A. He didn't say when.

Q. Was the trunk yours?—A. Yes, sir.

Q. When did you last see the trunk?—A. Ten or twelve years ago.

Q. Where was it then?—A. At Lone Pine.

Q. What did you do with it?—A. Left it there.

Q. And how did it get in your son's possession?—A. It was in his house where he was.

Q. Did your son live with you then?—A. Yes, sir.

Q. Where did your son go after that?—A. He stayed right there.

Q. And has been at Lone Pine since 1878?—A. Yes, sir.

Q. Until now?—A. He is there still.

Q. Did you ever make any search for these papers after 1878?—A. No.

Q. Do you mean to say that at the time you were corresponding with Mr. Lines, which was in 1878, you made no search for papers relating to your work at Tayoltita?—A. No, sir.

Q. You say in this same letter of January 4, 1878:

I worked all the El Cristo.

What did you mean by that?—A. All the El Cristo that there was at the hacienda.

Q. That is, you reduced all the ores that had come from El Cristo mine?—A. Yes, sir.

Q. And that were upon the patio?—A. Yes, sir.

Q. Do you mean to say that when you left there was no El Cristo ore on the patio?—A. None left.

Q. It was entirely cleared up?—A. Yes, sir.

Q. You say in this same letter of January 4, 1878:

I worked all the El Cristo, got my wages out of the proceeds, and left, for the reason that there were was nothing more to be done.

Now, can you state what the proceeds were?—A. Of that particular lot I can not.

Q. Did you have any conversation with Exall when he came back from Durango?—A. I might have had.

Q. Do you remember of having any conversation with him?—A. No, sir; nothing more than—

Q. You were the mill-man and he had taken down your bullion to Durango. Do you mean to say that you did not ask him on his return how much he got for it?—A. I might have asked him that question.

Q. Do you mean to say you do not remember anything about what he said?—A. I don't remember anything about it; why should I?

Q. You do not remember how much money he paid you?—A. No, sir.

Q. You do not remember what your wages were?—A. I do not remember what my wages were.

Q. And you say that you had no written contract with the company?—A. No, sir.

Q. In that same letter you say this:

As to what De Lagnel would testify to would be in this shape: Q. What did the ores of the La Abra Company assay?—A. *Well, I heard* Mr. Elder, my mill-man, say they went so and so.

Why did you underscore the words "*Well, I heard,*" in that letter?—A. By carelessness, I reckon, as much as anything else.

Q. You were undertaking to tell Mr. Lines in this letter how the testimony of Colonel De Lagnel would pan out, to use a vulgarism, in case he were examined, and you put these words into his mouth:

Well, I heard Mr. Elder, my mill-man, say they went so and so.

Q. Do you say now that you had no intention at all in underscoring the words "*Well, I heard?*"—A. I don't know that I had any intention of casting any reflections upon Col. De Lagnel.

Q. Take it in connection with the next sentence:

He is very candid and truthful, but he can not assay.

Do you see now why you underscored the words "*Well, I heard?*" Did you not mean to say that in your judgment Col. De Lagnel was entirely dependent for his information in regard to the value of those ores upon your assays?—A. Well, while he relied on me for that information, he was not entirely dependent upon me.

Q. Why do you say that?—A. He checked my assays by sending them to San Dimas. When I told him what the ores assayed he said, "Please fix a sample for me the same as you assayed, and I will send it to Mr. Rice, and see how he corroborates you."

Q. Did you fix those samples for him?—A. I took a sample out of the same pan and in his presence.

Q. How much did all of the samples assay that you prepared for Col. De Lagnel to send to Mr. Rice?—A. I probably sent him half a pound. We used half an ounce.

Q. On how many occasions did you do that?—A. Only one.

Q. Do you know what was done with that sample?—A. Oh, no; Mr. Rice probably sent it back to the colonel.

Q. But you do not know anything about Mr. Rice's report on the sample?—A. Yes, sir; he checked me exactly.

Q. Who was it made the assay at San Dimas?—A. Mr. Joseph G. Rice.

Q. You have testified that those assays that you made after De Lagnel's disappointment at the result of the reduction of the 10 tons of ore showed from \$3 to \$4 a ton.—A. Three to 4 ounces.

Mr. FOSTER. Did he not say 3 to 5?

Mr. KENNEDY. No; I think not.

The WITNESS. I think it was 3 to 5.

Mr. KENNEDY. Then we will say 3 to 5; what ores were those?—A. Those were the mines up in the same vicinity, from La Luz or from different mines.

Q. Were any of those El Cristo ores?—A. No, sir.

Q. Were they La Luz?—A. La Luz, I think.

Q. And Rosario?—A. Yes, sir.

Q. Tell us about the character of those La Luz ores in regard to sulphur.—A. La Luz ore was very bad; carried antimony, some lead, and a good deal of sulphur.

Q. Were these the ores that you described as refractory and rebellious ores?—A. Yes, sir.

Q. Will you tell us what special treatment, if any, as distinguished from the treatment you gave El Cristo ores, those sulphuret ores required?

The WITNESS. Would require if I was to work them?

Mr. KENNEDY. Yes.

A. I would have to crush them just the same as I did El Cristo ores, and then they would come up and go through a reverberatory furnace, and they would be roasted whole, and that would probably have to be done for as much as six hours; then they would be ready for working. That would be the process they would have to go through.

Q. Was that the process that you employed at your mine at La Puerta?—A. Yes, sir.

Q. So that you had those same refractory ores there?—A. Yes.

Q. Can you tell why it was that the machinery for treating those refractory ores never was finished at Tayoltita?—A. The roasting furnace, I judge, was finished.

Q. Why was it never used?—A. Because the ores were of so low a grade that they did not justify it. The cost of roasting would be \$12 a ton, and that was all the value of the ore, including the gold.

Q. I thought you testified that some part of the apparatus necessary for treating those refractory ores was not finished.—A. The roasting furnace was all completed.

Q. As a matter of fact how many tests of that La Luz ore did you make before you came to the conclusion that it did not pay to work them?—A. I only assayed around once.

Q. And how many tons of La Luz ore of this rebellious or refractory

kind were on the patio?—A. I think there were some 500 tons of those ores.

Q. You are not including El Cristo ores?—A. No, sir.

Q. Tell me what the influence of exposure to the atmosphere is upon these refractory ores.—A. In time it would desulphurize them; they would decompose, but it takes a long time.

Q. How long a time, supposing that the ores are exposed to all weathers?—A. If they were crushed they might oxidize so that you might get a little something out of them after they had lain two or three years.

By Mr. LINES:

Q. That is, if there is anything in them?—A. Yes, sir.

By Mr. KENNEDY:

Q. You say in your letter of January 29, 1878:

Exall's letter of recommendation is dated Tayoltita, December 1, 1867.

Did you preserve that letter?—A. I did for quite a good many years.

Q. Did you have it in your possession when you wrote that letter of January 29, 1878?—A. It is possible that I had.

Q. In the letter you speak in the present tense. You say: "It certifies to my ability," and so on. Would you have done that if the letter had been at that time lost or destroyed?—A. I think I would have been just about as apt to say so.

Q. What is the fact, according to your best recollection, as to whether you had possession of that letter of recommendation when you wrote this letter to Mr. Lines?—A. I never impressed my mind very strongly with anything of that sort. I didn't attach any great importance to it.

Q. Let me read you this:

I have a memorandum of assays made in August, September, and October, 1867; they are of ores from all the mines the company worked.

Now I ask you whether, as a matter of fact, on the 29th day of January, 1878, you had possession of that memorandum of assays?—A. I was not at home at that time, if you please. I suppose that that was where I could have reached it at that time, possibly.

Q. Your letter is dated at Lone Pine (printed Pone Pine), Cal., January 29, 1878.—A. I probably had the memorandum right by me at the time.

Q. Do you think you were not at home?—A. I was thinking of that being the one I wrote from Grantaville, Nev.

Q. Then you have no doubt that this memorandum of assays was still in your possession at Lone Pine when you wrote the letter of January 29, 1878, to Mr. Lines?—A. There is no question about that, I think.

Q. In your letter of March 4, 1878, you say:

If the Mexican Government can not afford to pay its witnesses for time and traveling expenses, it will not get my evidence.

Did you have in your mind any value for your time when you wrote that letter?—A. Nothing more than my expenses, which would be quite a little.

Q. You say "for time and traveling expenses," and my question is what valuation you put on your time, as distinguished from your traveling expenses?—A. I didn't put any valuation upon my time. My expenses at that time would have been not less than \$500 for this trip.

Q. I am trying to get your idea, if you had one, as to the distinction which this letter seems to make between your time and traveling ex-

penses, and my question is what you meant when you said that the Mexican Government could not have your testimony unless it would pay you for your time and traveling expenses?—A. Well, I was still employed at \$300 a month and furnished, and I would expect that much to come here if I was to leave my work, unless I was taken by the United States marshal.

Q. What do you expect to get for your time now?—A. I expect to get for my time 5 cents a mile, and \$3 a day while I am detained here, for the round trip.

Q. In your letter of December 8, 1878, you say:

Do not forget that I can be of service to the Mexican side if they will be liberal.

Did you consider that \$10 a day for your time—that being just what you were getting at the smelting works—would be “liberal”?—A. Yes, sir; that would be a rest from the smelting works, coming on here, and I would consider that very grand.

Q. Have you ever said to any person during your journey from California, or in Washington at this visit, that you expected to receive a large sum from the Mexican Government for coming here and giving your testimony?—A. No, sir.

Q. You swear to that?—A. Yes, sir.

Senator DOLPH. I will suggest to the counsel that if that question is intended to lay a foundation for impeaching this witness the law is well settled as to the form of the question.

Mr. KENNEDY. I grant that, Mr. Senator.

Senator DOLPH. I make that suggestion now because, as far as I am individually concerned as a member of the committee, I shall be disposed to insist upon the rejection of any such testimony that is offered unless the form is complied with.

Mr. KENNEDY. Perhaps I ought to say, Mr. Senator, that I purposely made my question open to the objection that the Senator has properly made to it, because I am under some embarrassment in regard to a letter which has been shown to me by Senator Morgan, which I understand he has received on this subject, and until Senator Morgan makes me free to use the letter I can not put the question any more definitely to the witness than I have done; and inasmuch as the strict rules of the law are not observed in this examination by the committee—I mean the committee does not insist upon the strict rules of law—I asked the question in that objectionable form.

Senator DOLPH. It was for the benefit of counsel that I made the suggestion. The objection very probably does not arise now, but would arise if it were undertaken by testimony to show that the witness has made a particular statement.

Mr. KENNEDY. Clearly. I am sure the Senator is correct in that.

Mr. FOSTER. We have been inclined to allow counsel great liberties in his questions, and have not been very prompt in objecting to a number that we might very well have objected to; but as he has already referred to the embarrassment he is under, I think he ought to respect that as we have.

Mr. KENNEDY. I have tried to respect it.

Mr. FOSTER. He ought to respect it until he has laid a foundation for prosecuting an investigation of this kind.

Senator DOLPH. The witness says he has made no such statement. If the counsel desire to follow it further he will probably be furnished with the necessary data to do so, if he has it not already.

The subcommittee adjourned until 10 o'clock to-morrow, January 31, 1889.

TESTIMONY OF A. B. ELDER—Continued.

COMMITTEE ON FOREIGN RELATIONS,
UNITED STATES SENATE,
Washington, D. C., January 31, 1889.

The committee met pursuant to adjournment. Present, Senator Morgan (chairman), Hon. John W. Foster and Robert B. Lines, esq., counsel for the Mexican Government, and Crammond Kennedy, esq., of counsel for La Abra Silver Mining Company.

A. B. ELDER recalled.

By Mr. KENNEDY:

Q. You testified yesterday, Mr. Elder, on your cross-examination, that as soon as you received Mr. Lines's letters, which have been put in evidence, you tore them up. Is that still your recollection?—A. Well, I am not positive of that, Mr. Kennedy. I laid the letters by and they may be in existence yet, for aught I know; but I have not seen them since 1878.

Q. You were examined very carefully on that point, and you testified that the memoranda of which you spoke in one of your letters to Mr. Lines and the papers relating to La Abra were in a trunk and were destroyed, and that your son wrote you only two weeks ago that they had been destroyed. Now, I want to ask you what has changed your mind over night?—A. Well, I still say that I do not know what has become of those letters; that they may be in that trunk, but that I wrote to them for any papers that had the word "La Abra" on, and they sent me word that they had all been destroyed when I was reported dead from yellow fever; that all those papers had been destroyed.

Q. Then you do not now allude to the letter that your son sent you two weeks ago when you say it was at the time you were reported dead of yellow fever. Do you mean you received some other communication in regard to those papers?—A. No; no other.

Q. Well, were you reported dead of yellow fever two weeks ago?—A. No, but when I had been reported dead some years ago; that at that time they had destroyed the papers.

Q. That is, you received a letter at that time telling you—A. No. When I wrote for the papers two or three weeks ago, then they wrote me that when I was reported from Tucson, Ariz., as having died from yellow fever, that those papers were all destroyed.

Q. Now, tell us whether that communication at the time you were reported dead of yellow fever was written or by word of mouth.

Mr. LINES. I don't think he said he got any communication.

Mr. KENNEDY. He says they told him. I want to get him to be more precise.

Mr. LINES. Now let us see if we can get at what he said.

Mr. FOSTER. Let us find out what the witness said—

Mr. LINES. If I understand it, he says he got a communication two weeks ago to the effect that these papers were destroyed when he was reported dead of yellow fever.

By Mr. KENNEDY:

Q. Now, to save time, I will ask you whether counsel has correctly stated what you mean to say?—A. That is as I have stated it exactly.

Q. Now, you said yesterday that you had destroyed that letter from your son.—A. Yes, sir.

Q. Do you now swear that your son said in that letter that the papers were destroyed at the time when it was reported that you were dead of yellow fever?—A. That is what he said.

Q. Now, what time was that?—A. When I was reported dead?

Q. Yes; of yellow fever.—A. That was about six years ago.

Q. Now, I wish to direct the attention of the witness to the statement of the Mexican Government on page 428 of Ex. Doc. 103, under the title of "New evidence offered by Mexico." I will read you a sentence or two:

Herewith are transmitted the originals of certain letters addressed by A. B. Elder, the assayer for La Abra Company, to the Mexican minister and Mr. Robert B. Lines. Mr. Elder desired to find a market for the knowledge which he possessed of the affairs of La Abra Company. He was informed that if he had any documents, clearly authentic, bearing upon the case, there might be room for a negotiation, but that affidavits were not regarded as purchasable. Mr. Elder claimed to have such papers, and was asked to produce them and name his price. This, as his letters show, he failed to do, and the correspondence with him was dropped. He appears, however—

And this is the point to which I invite your careful attention:

He appears, however, to have found a market for the letters addressed to him in reply by Mr. Lines.

Now, I want to ask you whether it is a fact that you ever found any market anywhere for the letters addressed to you by Mr. Lines?—A. Never in the world, sir.

Q. Is there the slightest foundation in fact for the assertion of the Mexican Government which I have just read to you? Did you ever offer any of Mr. Lines's letters for sale to anybody?—A. Never.

Q. Did you ever receive anything for any of Mr. Lines's letters from anybody?—A. Not one cent.

Q. Did anybody ever offer to pay you one cent for any of Mr. Lines's letters?—A. Never.

Q. Did you ever have any correspondence with La Abra Company or any of its officers in regard to any of Mr. Lines's letters?—A. To the best of my knowledge and belief, never.

Q. Now, Mr. Elder, I want to invite your attention again to your letter of April 8, 1878, addressed to Mr. Robert Lines, one of the eight letters that were put in evidence yesterday. You say in that letter:

In a letter from Saint Louis of date March 24, 1878, they are trying to persuade me that the ores of the company were very rich; from \$1,000 to \$1,800, and as high as \$6,400 silver and \$600 gold.

Now, I ask you who it was that was trying to persuade you in regard to these things?—A. Well, I received one letter in that respect, and that was a letter from General Bartholow, seeming to me to criticise—

Q. One moment. You know that we drew out of you yesterday the fact that about New Year's Day, 1868, you had received a letter from General Bartholow, and I told you then that I did not examine you as to the contents of that letter. Now the question that I ask you refers, not to anything you received in 1868, but to this statement of yours ten years later.

By the CHAIRMAN:

Q. Where is that letter, Mr. Elder, that you received from General Bartholow?—A. I have not any of those letters. I have been traveling around so that I have not a letter on earth from any of them.

Q. You are satisfied they are lost; you think they are irretrievably lost?—A. Yes; that is my impression.

Mr. LINES. Perhaps Mr. Kennedy would state whether La Abra Company has any copies of such letters, General Bartholow being an agent of the company—

Mr. KENNEDY. I know of no such letters at all.

The WITNESS. Mr. Kennedy, in regard to that letter, I state in 1868; that must be a mistake on my part. I did not mean to say that in 1868, for in 1868 I did not receive any letters from that company. In 1868, that must be a misstatement of mine, a mistake.

By Mr. KENNEDY :

Q. Did not you say that it was when you landed, or very soon after you landed in 1868? I am asking you now for your recollection of what you swore to yesterday?—A. Well, it was only one letter that I received.

The CHAIRMAN (to Mr. Kennedy). You want to test the accuracy of his memory; is that the point you raise in the case?

Mr. KENNEDY. He now makes a statement different from the one he made in cross-examination yesterday.

The CHAIRMAN. Is it your purpose to test the accuracy of his memory?

Mr. KENNEDY. I want to get at the facts. I take it for granted that this witness has his wits about him, and that he remembers what he swore to yesterday.

The CHAIRMAN. I am perfectly willing for you to test the memory of this witness as far as you choose and for whatever object, but if you want to ask him about a statement in explanation of it which was made on yesterday or some other time before us, then the statement ought to be laid before him and let him say whether it was correctly taken down or not.

Mr. KENNEDY. As I can not refer to the record, let me ask the witness to state, without reference to what he said yesterday, when it was that he received the letter from General Bartholow.

The CHAIRMAN. That is right; now go ahead.

The WITNESS. That was in 1878 that I received that letter, after this—

By the CHAIRMAN :

Q. You mean 1878 or 1868?—A. I mean 1878, seeming to be criticising the results—

Mr. KENNEDY. One moment. I do not ask you the contents yet of that letter. My purpose is to have you fix the date. Now let me ask you whether it is the letter that you now say you received from General Bartholow in 1878 to which you refer in your letter of April 8, 1878, to Mr. Lines, in the following words :

In a letter from Saint Louis of date March 24, 1878, they are trying to persuade me that the ores of the company were very rich, from \$1,000 to \$1,800, and as high as \$6,400 silver and \$600 gold.

Is that the Bartholow letter?—A. That is the Bartholow letter.

Q. Now, let me ask you what you did with that letter?—A. Oh, I have mislaid it; I did not attach any importance to it.

Q. Is that the letter to which you allude, in another of your letters to Mr. Lines, as a letter and memoranda that you thought would be valuable to the Mexican Government?—A. That must be the letter. I do not remember the reference that you speak of.

Q. Now, are you clear in your mind that you never received but one letter from General Bartholow?—A. Never but one.

Q. And are you clear in your mind that you never received any letter

on that subject from any other former officer of the company?—A. Yes, sir.

Q. Now I invite your attention to another sentence in your letter of April 8, 1878, to Mr. Lines:

Through some party, to me unknown, I am offered a good show to go to China to look after a silver mining company's affairs.

I ask you who it was that made you that offer?—A. Well, I don't know who it was that made me that offer.

Q. I ask you whether you have any reason to suppose that it was made to you by any officer, or other party interested in La Abra Company?—A. I have no reason to believe so. Such propositions were often made to me.

Q. It was nothing uncommon?—A. Nothing uncommon.

Q. You had been mining how long?—A. Ever since 1853.

Q. Now, I want to invite your attention to the statement made by the Mexican Government in regard to that China business, on page 430 of that same document No. 103, under the title of "new evidence offered by Mexico." I now read to you, Mr. Elder:

Either Mr. Elder has exhausted La Abra treasury, or else the persons conducting the affairs of that company have swindled him, as they did their other witnesses, by failing to carry out their contract and send him to China.

Now, I ask you whether there is the slightest foundation in fact for the allegation that you had any contract with any officer of the La Abra Company, or with the company itself, to go to China, or for the allegation that they swindled you by not sending you there?—A. None whatever.

Q. Can you think of any reason for such a statement being made?—

A. I can not imagine any. I certainly never received any such proposition from any member of La Abra Company.

Q. Now, I invite your attention to your letter of March 4, 1878, to Mr. Lines, page 115, Ex. Doc. 274. I want to say to Mr. Lines that in this letter I am now about to read the witness answered Mr. Lines in regard to what memoranda and letter were the subject of negotiation between Mr. Lines and Mr. Elder. Now Mr. Elder, in the letter of March 4, 1878, says to Mr. Lines:

Yours of February 17, 1878, came to hand on the 1st instant, and in answer I will say that I will not at present dispose of the memoranda and letter you speak of. If the Mexican Government can not afford to pay its witnesses for time and traveling expenses, it will not get my evidence.

Now, I ask you whether the letter to which you refer in the words I have just read was the letter that you say you received from General Bartholow in 1878?—A. Well, I am not positive as to that.

Q. Well, had you any other letter that you wanted to dispose of?—A. The fact is, Mr. Kennedy—

Q. Answer that question, please; had you any other letter?—A. I do not know that I had.

Q. Now if you want to make any explanation.—A. It has been so long. I attached so little importance to those letters and fact of the correspondence that I never impressed my mind, and it is not very clear to my mind just what transpired.

Q. You say you attached little importance to that letter?—A. I supposed that the case was dropped; yes, sir.

Q. When did you suppose the case was dropped?—A. When the award had been made, and there never was any one that seemed to want my testimony in the case.

Q. Had not the award been made in 1878?—A. I did not know when the award had been made.

Q. Do you mean to swear that when you wrote that letter of April 8, 1878, you did not know that an award had been made in favor of La Abra Company?—A. I probably knew the award had been made, but I did not know at what time it had been made.

Q. Now, what did you mean by saying that you would not "at present dispose of the memoranda and letter?"—A. That I would not at present dispose of them?

Q. Yes; "at present?"—A. I do not know what I really did mean by that. I don't have any recollection now.

Q. Did you at that time have an intention of keeping the memoranda and letter in your further possession?—A. I presume that I did.

Q. Then how could you say a moment ago that you attached no importance to the memoranda and letter?—A. I considered that the case had been disposed of.

Q. When did you consider that the case had been disposed of?—A. Even at that time, I considered that it had been disposed of.

Q. Why should you say then—I want to get your reason—why should you say then that you would "not at present dispose of the memoranda and letter?" Let me put a leading question to you; you are under cross-examination. Did not you intend at that time to keep the memoranda and letter to be disposed of afterwards?—A. I probably intended to keep them, as, if I was called upon to give evidence, to show that on such and such dates I had made assays.

Q. Now will you tell me whether you put any value upon the memoranda and letter?—A. Nothing more than to refresh my own recollection.

Q. No, but I mean a money value—a price?—A. I never put any value upon it.

Q. Now I invite your attention to a word or two in an extract from the new evidence offered by Mexico which I have read to you already, page 428.

He was informed—

That is you.

He was informed that if he had any documents, clearly authentic, bearing upon the case, there might be room for a negotiation, but that affidavits were not regarded as purchasable.

Now I ask you what negotiation was referred to by the Mexican Government in these words, if you know?—A. I don't know.

Q. You mean, then, to say that you had never offered the memoranda and letter for sale?—A. I don't think I ever offered them for sale.

Q. What did you mean in one of your letters when you said that Mexico could have your testimony if she would be "liberal?"—A. I meant by that if they would pay me my expenses and the amount that I was getting per month that I could afford to come here, and I considered that liberal.

Q. Did you ever make that offer to Mr. Lines?—A. It appears to me that I did. I stated that my time would amount to so much for two months, and the expenses would amount to about so much.

Mr. LINES. The letter is in evidence, Mr. Kennedy.

Mr. KENNEDY. No doubt of it.

Mr. LINES. And he has identified the letter.

By Mr. KENNEDY:

Q. Now, in one of your letters you speak of the award to La Abra

Company as a "grand steal." What do you mean by that?—A. Well, I spoke of it as an excessive award.

Q. Did you know at that time what the award was?—A. I had seen it in the dispatches.

Q. Well, tell us what you saw.—A. I saw the award was \$668,000.

Q. Did you ever read the award of the umpire?—A. No, I never did.

Q. Have you read any of the papers printed in this case?—A. I never have.

Q. Did you know when you said that the award was a "grand steal" that the umpire had allowed only cost and expenses for the mines and machinery?—A. No, sir.

Q. Now, I want to ask you what you meant by saying in your letter of January 4, 1878, to Mr. Lines—

Mr. LINES. One moment; was that the first letter?

Mr. KENNEDY. No, that is the fourth letter.

Mr. LINES. At the proper time I want to say that the first letter was addressed to the Mexican minister, the letter of November, 1877.

Mr. KENNEDY. Well, you can put that in now—I have no objection.

Q. I read from your letter, Mr. Elder, of January 4, 1878:

I do not believe that Exall was ever imprisoned while in Mexico.

Now, why did you say that?—A. Well, Mr. Kennedy, up to the time that I left we never had had any trouble, and there had never been anybody imprisoned, and we seemed to get along very well, and I did not suppose that, in so short a time, when there was nothing doing, there would be anybody imprisoned after I left.

Q. Did you not testify yesterday that you had to abandon your own mine because the Mexican miners stole your own ores and you could not get justice?—A. Yes, sir.

Q. Tell the committee, if you please, what you know about arbitrary arrests down in that country while you were there.—A. Well, really, I don't know of any arbitrary arrests. I never was arrested in my time in that country.

Q. Did not you ever know of men being put in jail there and imprisoned and confined without trial?—A. Of Americans, no; I do not remember of any such occurrences.

Q. I wish you would refresh your recollection on that point.—A. I am speaking of those right around our immediate vicinity. I don't know of any one—

Q. No, I am asking you for the full extent of your knowledge while you were in Mexico from 1861, I think you said, to 1867, on the question whether arbitrary arrests and imprisonment were not frequent.—A. Well, not with the Americans, it was not.

Q. Well, with whom?—A. Well, I don't know that it was with any one. I am sure that there was not any one of us ever arrested or imprisoned.

Q. Well, I will let that go for the moment. Now I want to ask you this question, to lay the foundation for contradicting you in regard to what you have just said about arbitrary arrests: Did you not come to my office in Washington, within a few days, and say to me, in the presence of another person there, that you knew that Mexican officers were in the habit of putting people in jail and confining them without any trial at law, and that there was one little black justice of the peace, who went barefooted, that you had known to do such things, or words to that effect?—A. My recollection—

Q. The question is whether you said that to me in my office?—A. My

recollection is that he would come and I would have to stop the mill and he would take me about a mile away as interpreter. He did that a number of times.

Q. You mean by force?—A. Oh, yes.

Q. Well, how was the force exerted?—A. Send a couple of soldiers after me with bayonets.

Q. Did you ever make any resistance?—A. I say, "I can not go; I am running the mill; I will have to shut down." "It makes no difference; come along."

Q. How often did that happen?—A. That happened about four or five times.

Q. What did you say they wanted you to do?—A. They wanted me to act as interpreter in his court.

Q. And where had you to go to?—A. I had to go about a mile above the hacienda to an old village.

By the CHAIRMAN:

Q. What hacienda?—A. Tayoltita.

By Mr. KENNEDY:

Q. Do I understand that these occurrences that you mention now happened while you were assayer for La Abra Company at Tayoltita?—A. Yes, sir.

Q. Did not you say in that conversation with me that you knew of such occurrences, and many of them, while you were at La Puerta?—A. At La Puerta?

Q. Yes.—A. Well, they would arrest our men.

Q. That is what I mean.—A. Sometimes; at times they have taken our men away, half a dozen of them at a time.

Q. You mean without warrants?—A. Oh, yes; without warrants.

Q. Did you ask to see the warrants under which your men were arrested?—A. It came, just an order from the justice of the peace, and they would be marched off.

Q. Who marched them off?—A. There was a soldier, an officer from the justice of the peace. They arrest a man there for debt. They took a man away from you if he owed somebody before he went to work for you; they took him away and made him work for the other man.

Q. Do you mean to say these miners would go peacefully with the officer?—A. Oh, they would go; he would have a musket.

Q. When you testified yesterday, did you not say that in your own case the Mexican magistrate told you that he was afraid both for your sake and his own to arrest the thieves of whom you had complained?—A. Yes; that was in 1865 at La Puerta. You see, Mr. Kennedy, I was getting out ore. I did not have any foreman over my men. I paid them so much a cargo for getting out ore, so that they gave me the poorest portion of the ore and they kept the better that was salable.

Q. That is, your miners did?—A. Yes; and when I came to assay it I found the portion I had was valueless comparatively, while I knew they had been taking out very fine ore, and that ore was taken away.

Q. And you complained of that?—A. I complained.

Q. To whom did you complain?—A. To the justice of the peace.

Q. What did he say?—A. He said they have got the ore; you had better prorogue your mine and stop work for the present.

Q. You made no claim against the Mexican Government under the treaty of 1868, did you?—A. No, sir.

Q. And the company that you organized and at one time owned this La Puerta mine, that company made no claim?—A. No, sir.

Q. Mr. Elder, were you at Tayoltita at the time that Colonel Valdespina made his forced loan there?—A. What date was it?

Q. Let me change the question: Do you remember of hearing of anything about a forced loan by Valdespina while you were at Tayoltita?—A. I remember hearing it talked of about the place that there had been notice served on the company to put up so much money. I do not remember whether it was Valdespina or another officer, but I know that there was such a thing.

Q. Now you testified in your direct examination yesterday, in substance, that there were no orders or interferences by the local officers that stopped the work of the company; is that your best recollection yet?—A. Yes, sir; with the single exception of an hour or two at a time. When I would be taken away if the other man was not there, why, the mill would have to stop.

Q. I think you said that you never were in any of the company's mines?—A. I never was, sir.

Q. Could work have been stopped in the mines without your knowing it? I do not mean for a month or two, but for a day or two at a time.—A. Oh, yes; it might have been.

Q. That is, there could have been interferences with the workmen of the company in the mines and you might not have known of it?—A. Such a thing might have occurred.

Q. Now I ask you whether you ever heard of such interferences?—A. No; I think not.

Q. Now I want to refresh your recollection, and I would like to read to you a paper introduced by the Mexican Government, on page 430 of the last printed document:

2d Conciliating Court of Tayoltita. In consequence of the official communication of yesterday, the 3d instant, received from the gefe politico of San Dimas, I notify you that if you do not intend to continue working the Abra mines upon the system of "thirds," as formerly, that you forthwith vacate the mines, and allow the operatives to work them for their own account, and that they may lose no more time. Liberty and reform.

Tayoltita, July 4, 1867.

GUADALUPE SOTO.

To the Superintendent of the Abra Reducing Works.

Now, on July 4, 1867, you were at Tayoltita, were you not?—A. Yes, sir.

Mr. LINES. You say we introduced that letter?

Mr. KENNEDY. I say that the Mexican Government, in its examination of Soto, brought out the fact that Soto had issued these orders, and also the fact of his allegation that he had to do it because there was an uprising of the people. I can refer you to that.

Mr. LINES. Well, that is a very different thing. The letter was first introduced by La Abra Company in Granger's testimony.

Mr. KENNEDY. No, my statement, Mr. Lines, is strictly correct, and I will state it again. It is that Soto, who was justice of the peace at Tayoltita in 1867, was examined as a witness on behalf of the Mexican Government, by the Mexican Government, and that he testified to having made certain orders addressed to the administrator of La Abra mine, one of which I have just read, and that he said that he was obliged to issue the orders because there had been an uprising of the people to compel it.

Mr. LINES. Now, let us hear what your statement was, whether you said we introduced that document or not. Now, I would like to know whether you did say that.

Mr. KENNEDY. I have made my statement now, and the stenographer can read it.

The stenographer read the statement as follows :

Now, I want to refresh your recollection and I would like to read you a paper introduced by the Mexican Government on page 430 of the last printed document in this case.

Mr. LINES. Now, I want to say that the statement of Mr. Kennedy that the letter was introduced by the Mexican Government is not correct.

Mr. KENNEDY. It is not a letter.

Mr. LINES. And Mr. Kennedy's statement is not correct according to the record.

Mr. KENNEDY. Now, Mr. Chairman, although I do not like to interrupt the cross-examination of this witness, I would like to refer to side page 162 and top page 435 of the same document and to insert the following question from the examination of Soto by the Mexican Government :

Question. When you were judge in Tayoltita, in 1867, did you direct and issue the communications dated, respectively, the 5th and 4th of July, copies of which have been shown to you, and which appear on page 6 of these proceedings, he replied that he is certain of having issued such communications to the administrator of the "Abra" establishment, and that he did so because there had been a rising of the people to compel him to.

Now, further down I read again from Soto's examination :

On this deposition being read to him, he added that the communications which he issued were in consequence of the fact that besides the disturbance on the part of the people, he had received orders to that effect from the political chief, Marcos Mora; all in consequence of the failure of the superintendent to contract with the operatives for working the mines.

Q. Now, Mr. Witness, does the reading of that order——

Mr. LINES. Now, Mr. Kennedy, will you permit me——

The CHAIRMAN. Let him state his question.

By Mr. KENNEDY :

Q. Does the reading of that order from Guadalupe Soto dated July 5, 1867, refresh your recollections?—A. As to the working of the mine?

Q. As to the interferences of Mexican officials with the conduct of the mines?—A. Well, Mr. Kennedy, that would be merely a matter of the office; would not come to me. I would know very little about that; I would hear it. I knew that that was the case.

Q. That is all I want to get out of you, and I would like to ask you whether your duties confined you to the office or to the mill pretty constantly?—A. Yes, sir; at the mill.

By the CHAIRMAN :

Q. More frequently or constantly than at the office?—A. Oh, yes; I was seldom at the office. I had an office of my own at the assay department.

Q. Now, Mr. Elder, I will ask you a question. Is it the custom of the Mexican civil authorities, enforced through the alcalde, to take supervision of the relation between mining companies and Mexican operatives in Mexico, so as to see that the operatives are paid what the miners or the mining companies agree to pay them?—A. Yes, they do that.

Q. That is a matter of legal administration in Mexico?—A. Yes, sir.

Q. For the purpose of preserving the miners in their rights as against their employers?—A. Yes, sir.

Q. Are these miners, in a general way, peons?—A. Yes, sir; well,

they are very migratory. They are in Sau Luis and other places. They are not owned by any one.

Q. Well, I understand that the system of peonage has been abolished in Mexico; but are these men entirely free to go where they please, notwithstanding they may be indebted to these persons?—A. No, sir.

Q. They are not free?—A. They are not free unless, if they leave that gentleman [indicating] and come to work for me, it is with his permission, and then, after the miner has taken out his living, I must pay whatever is over on his debts to that gentleman.

Q. Now, as I understand, the miner in Mexico has attached to him whatever indebtedness he may owe to his employer?—A. Yes, sir.

Q. So that if he is taken into employment by another person that person assumes the debt to the former employer that may be left undischarged by the Mexican miner?—A. To the extent of whatever there is over his living, his earnings may be paid by the contract, and if he earns more than is necessary to live on, this man might say, "This man can not live extravagantly and I want the remainder to be paid to me."

Q. The debt goes as a sort of mortgage lien upon the services of the peon and follows him when he accepts new employment from a person different from the one who had formerly employed him?—A. Yes, sir.

Q. And that person engages to pay the debt due to the former employer after allowing to the miner what he and the subsequent employer conceive to be a fair living for him?—A. Yes, sir.

Q. So that, in effect, the system of peonage, while abolished as a matter of law, operates in Mexico?—A. To that extent.

Q. Now it is because—and I want to understand if I am correct—it is because of that fact that the alcaldes have jurisdiction to inquire into the affairs of these miners or peons, so as to determine whether they are being fairly treated by their employers?—A. Yes.

Q. That is what I understand to be the law. Now, in the matter that you have been speaking of, the interference of the alcaldes there, or civil authorities of whatever character they may be—

Mr. KENNEDY. It is a justice of the peace.

The CHAIRMAN. Well, an alcalde is a justice of the peace.

Q. I understand you to mean to be understood as saying that these alcaldes intervened, according to Mexican law, for the protection of the miners against their employers, and that when they dictate that a certain amount shall be paid in money, a certain amount in goods, or that a certain amount shall be paid at one date or at another date, it is because of the fact that the Mexican law authorized these alcaldes thus to control the relations between the employer and the peon or miner?—A. Yes, sir.

Q. Now, if you, in Mexico, desired and needed a peon or miner whom you found to be in the employment of another man or another company, I suppose your first inquiry would be how much debt he owes to his employer?—A. Yes, sir.

Q. After getting his consent to go with you in place of remaining with the other person. Then you would assume that debt, under an agreement with the former employer, you and he agreeing upon what would be a fair living to the Mexican while he was in your service, and the surplus over that living while in your service would go to the extinguishment of that debt?—A. Yes, sir.

Q. And so, if you desired to transfer that same man to another person, you would make the same arrangement?—A. Yes, sir.

Q. So that the debt always follows the man along, and is a sort of mortgage lien upon his service after his living, as agreed upon between the employers, is taken out?—A. Yes, sir.

By Mr. KENNEDY:

Q. Mr. Elder, did you ever inquire of any laborer that you hired at La Puerta whether he owed anything to his former employer?—A. I never made that inquiry.

Q. Did you ever have men leave your employ who were indebted to you?—A. Yes, sir.

Q. Did you ever try to recover the debts of them?—A. Yes, sir.

Q. Did you apply to a justice of the peace or alcalde?—A. No, sir; I would simply notify the man with whom he was to work that that man owed me so much money. I have had that same notice served on me from the man he left.

By the CHAIRMAN:

Q. What is the effect of that notice?—A. The effect is that he holds me for that surplus over his living.

Q. And has a right to do so under the laws of Mexico?—A. Has a right to do so under the laws of Mexico.

By Mr. KENNEDY:

Q. Do you say that these orders that I have referred to were addressed to Mr. Exall because his miners owed anybody else money?—A. No.

Q. Did you ever examine the Mexican laws on that subject?—A. I never did.

Q. Did you ever hear any statement of the law until the Senator made it to you just now?—A. Oh, yes.

Q. From whom?—A. It was common there among the miners in San Dimas. That is where our help all came from when we came to work.

The CHAIRMAN. I happen to know it, because I had the misfortune once to try to work out an old mine in Mexico, and I found that rule was obtaining there in the state of Coahuila.

Mr. KENNEDY. I have no doubt, Mr. Senator, if you have examined the subject, that your statement is perfectly correct in law, but the suggestion that I wanted to make was that it would be proved to be law rather by your own high reputation as a lawyer than by any expert character that has been established for this witness, and if I had been in court I should have objected to the statement as purely leading and instructing the witness upon the point in regard to which he was expected to answer.

The CHAIRMAN. Well, I asked it more as to the usage in Mexico than as a matter of positive law, and I think it is a usage rather than a matter of positive law.

The WITNESS. I have had them come and take a man away from us. They needed his service, but I wanted him to work in my mine; I did not want the surplus.

The CHAIRMAN. I understand that the Mexican laborer has the right to choose the place at which he will work, making a contract with any person he chooses to make a contract, but whenever he does it, this debt follows him along and must be discharged by his employer out of his labor. I think it would be a very good rule to have in the United States; keep the poor fellows from losing their wages.

By Mr. KENNEDY:

Q. Now, I would like to repeat a question. I am not sure of your

answer to it, and that was whether you knew or heard, while you were at Tayoltita, that these orders of Soto were addressed to Mr. Exall because of any claim that outsiders had made upon the miners?—A. No, I don't know that they were.

By the CHAIRMAN.

Q. Before you proceed further, Mr. Elder, I would like to ask you this question. When an agreement is made between the present employer of a Mexican peon or laborer and one who is about to employ him, desirous of employing him, is it always part of that agreement, or is it usually part of that agreement, that the Mexican laborer shall have his living out of his labor first of all?—A. Yes, sir.

Q. Secured to him?—A. Yes, sir.

Q. Now is that an obligation that is enforced by the alcaldes, or civil jurisdiction in Mexico, as against the employer?—A. That seems to be; as far as I recollect of that matter, it was that his former employer would exact it pay-day out of the balance that was over his living.

Q. The living as agreed upon?—A. As agreed upon.

Q. Now, suppose the second employer, the one who takes him with a mortgage upon his labor, fails to provide for him that sort of living, is the practice in Mexico for the alcaldes to interfere and to compel the second employer to live up to his contract and to provide the man with food, raiment, and whatever it is that he has agreed to furnish to the laborer?—A. I never saw an instance of that kind, where they attempted to make a man furnish it. You remember, it is customary for most every mining company to keep supplies, such as men use, corn, beans, rice, sugar, tobacco, calicoes, etc., which they take out every Saturday or Sunday before commencing work on Monday, for whatever they have done for the week prior.

By Mr. KENNEDY:

Q. Did you ever hear of any miner that was in the employ of La Abra Company—I mean the workmen to whom the company owed anything—failing to get supplies at the store?—A. No, sir.

Q. How far was the store from the mill?—A. About 300 feet.

Q. Now I want to ask you how the military operations—

The CHAIRMAN. Now, before you put that down—just state your question, and then I want to ask him something else.

Q. (By Mr. KENNEDY.) How did the military operations during the contest between the French Empire and the patriots affect your work as a miner while you were at La Puerta?

By the CHAIRMAN:

Q. Now before you answer that I desire to recall your attention to another matter about which you have been speaking. Did you hear of any complaint of La Abra Company's employes in regard to their payment, whether it should be in money or in goods at the store, or supplies?—A. At one time there was something of a jangle among the men, that the amount of cash had been reduced and a greater percentage of goods was paid. It was not anything that attracted any very great attention. I paid very little attention to it, but I heard it talked of.

Q. Do you recollect whether the alcalde there interfered to look into that matter to correct it if it was presented by the operators?—A. It was referred to the alcalde but it was talked over with the superintendent.

Q. Now is that a subject that you understood was within the jurisdiction of the alcalde?—A. I have always understood that to be within the jurisdiction of the alcalde.

Q. It is a matter of recognition according to the Mexican law for the protection of the miner?—**A.** Yes, sir.

The **CHAIRMAN.** That is what I referred to when I said it would be a good institution in the United States.

By **Mr. KENNEDY:**

Q. Mr. Elder, is not it a matter of contract between the mining superintendent and the men what proportion of their wages shall be paid in supplies and what in money?—**A.** Yes, sir.

Q. Now give us your own experience in that matter, when you were a miner at La Puerta, and tell us whether you did not some times pay your men all money and at other times part in supplies and at other times a different proportion in supplies and money?—**A.** Yes, sir. That was very often the case. We sometimes paid them three-fourths money.

Q. And would it not only be when a contract that had been made between the mining superintendent and his men was violated that the justice of the peace would interfere?—**A.** That was when the justice interfered, never at other times.

Q. Now the stenographer will please read the question I put a while ago.

The stenographer read the question as follows:

Q. How did the military operations during the contest between the French Empire and the patriots affect your work as a miner while you were at La Puerta?

A. Affect it, simply that we could not get supplies from the port.

By **Mr. KENNEDY:**

Q. Where were the French lines?—**A.** The French lines were at the old custom-house, within the city limits.

Q. And when you left Mazatlan, to go through the French lines, going to your place, what military jurisdiction did you come into?—**A.** We came into the Mexican.

Q. Now, is it or is it not the fact that during the whole of that contest the Mexican or patriot government had control of the San Dimas mining district; in other words did the French—**A.** The French did get there once or twice.

Q. Now tell us just when that was.—**A.** Well, I could not give you that, Mr. Kennedy; that is, the date I could not fix, because they were back and forth.

Q. What I want to get at is this: The military operations did not affect your administration of the mine at La Puerta; you were outside of the limits of the active struggle, were you not?—**A.** Comparatively.

Q. And your difficulties came from interruptions to your supplies coming from Mazatlan?—**A.** Yes, sir.

The **CHAIRMAN.** Military interruption or interruption of robbers, or what?—**A.** Military.

By **Mr. KENNEDY:**

Q. Now, had the military situation anything to do with the powerlessness of the justice of the peace to give you justice in those complaints that you made against the men that stole your ore; was there any interference of the military with the civil authorities?—**A.** It was not the military.

Q. So that there was nothing in the military situation to explain the trouble you had with the miners at La Puerta?—**A.** No, sir.

Q. And of course I need not ask whether it was anything in the military situation that made the men steal the ore?—**A.** No, sir.

Mr. FOSTER. He stated yesterday that the country was paralyzed in its civil authorities by the military trouble.

Mr. KENNEDY. You can bring that out on the re-direct.

Mr. FOSTER. You were stating what he had said. I simply recall that.

Mr. KENNEDY. No, I did not state what he had said. I asked him a question.

Q. Now, Mr. Elder, let us ask you whether you made any reports of the various runs of the mill to anybody after De Lagnel left?—A. I always turned over the results to Mr. Exall.

Q. Were those results stated in writing by you?—A. No, sir; just gave him the product of whatever ore I had worked.

Q. Do you mean to say that you made no written statement as to the quantity that you had crushed and the proceeds of the run?—A. I made no written statement, anything more than I stated to him so many tons of ore worked, and here is the proceeds.

Q. Now, while you were under cross-examination yesterday, I asked you what was your best recollection regarding the results in bullion of the reduction of the ore under your administration as mill man, and you said you thought it was about \$4,000?—A. That is the sum total?

Q. Yes.—A. Yes, sir.

Q. Now, I ask you whether that is still your best recollection?—A. Yes, sir; that is.

Q. Now, to refresh your recollection—you knew Mr. Sloan, did you not?—A. Yes, sir.

Q. What was Mr. Sloan?—A. He was an assistant foreman in the mines.

Q. Now, Mr. Sloan was examined by the Mexican Government and his deposition is printed on page 426 of the book of testimony, the last printed document in the case, and he said what I would now like to read to you to refresh your recollection:

That at the time he was a clerk for the company, he saw, according to the statement of the superintendent, that they had expended \$303,000 and had taken out a little less than \$5,000.

Now, in view of that statement of Mr. Sloan as to what he had seen, what do you say in regard to your estimate of \$4,000?—A. I think that mine is the nearer correct.

Q. That yours is more nearly correct?—A. Yes, sir.

Q. You think that your recollection would be a better test of the fact than a sworn statement of a former employé of the company made in an examination by the Mexican Government, and stated to be made upon what he had seen "according to the statement of the superintendent?"

The CHAIRMAN. The witness has stated his own opinion about it; you asked him for an opinion.

Mr. KENNEDY. I wanted to get his opinion after his recollection—

The CHAIRMAN. After asking him for an opinion, it is scarcely fair to attack it by comparison with the opinion of some one else.

Mr. KENNEDY. No; I did not attack it, Mr. Chairman. I had no intention of doing that. If you had been present yesterday, you would have noticed that there were a great many things that this witness did not remember at all. For instance, he did not remember what his salary was; he did not remember what amount of money Exall paid to him after Exall returned from Durango with the bullion, he did not remember how many months' pay he collected from the company; but he did remember, or thought he did, and said he did, what the gross

proceeds of the various runs of the mill were. Now, as he did not speak positively on that point, I read a deposition taken by the Mexican Government in an examination of a former employé of the company, who says that he saw a statement of the superintendent that the amount produced from the reduction of ores was \$6,000. My sole purpose was to put that fact before the witness and ask him whether, the fact being brought to his notice, he still thought that the gross proceeds were about \$4,000.

Mr. FOSTER. As Mr. Kennedy has been making a statement of what the witness testified in the absence of the Senator—

Mr. KENNEDY. On that one point, Mr. Foster.

Mr. FOSTER. It may be well to add that this witness testified yesterday that he had sole charge of the reduction of the ores from the time they left the patio until they came out as silver, and were, as just now stated, that this other man, whose testimony you were referred to, was the head miner at the mines. I mention that so that the Senator might know the relative capacity of the two men to testify on this point, the product of the ore.

The WITNESS. I would like to answer that question. Why I could answer so easily—

By Mr. KENNEDY :

Q. What question is it?—A. Why I thought that my estimate was nearer correct than that of Mr. Sloan.

By the CHAIRMAN :

Q. Proceed.—A. It was this way, Mr. Kennedy. There were 250 tons of ore only from El Cristo mine. That ore would give from assay gold and silver values not to exceed about \$18 per ton, and 90 per cent., or thereabouts, was my working percentage.

Q. Ninety per cent. of the assay, you mean?—A. Ninety per cent. of the assay per ton, and I would get very near \$16, being \$4,000 for the 250 tons. That was something I remember very well.

By Mr. KENNEDY :

Q. Now will you let me direct your attention to your letter of January 4, 1878, in which you make this statement :

Out of nearly 500 tons from other mines that instead of \$320 per ton gave assay of \$12.50.

You notice it is not ounces. Now I continue :

This was from the La Luz and La Abra mine.

Now I want to invite your attention to this statement in your letter :

The El Cristo ores I worked assayed \$11.50.

Now you have just stated that you got out of 250 tons of El Cristo ore about \$18 a ton, a net result of about \$16, and that multiplying that by 250 you get \$4,000. Why did you say in your letter of January 4, 1878, to Mr. Lines—

The El Cristo ores I worked assayed \$11.50?

A. Well, that was a slip. I should have said ounces. I should have put it ounces instead of dollars.

Q. Well, we will suppose you meant ounces. How much would 11½ ounces of silver be worth in dollars per ton?—A. There was a percentage of gold, you know, in that El Cristo, and I disremember the percentage of gold.

Q. Would not your assay or reduction include the precious minerals, whether silver or gold?—A. Yes, sir.

Q. Now, I want to invite your attention to a printed report in the new evidence offered by Mexico. On page 305 of Ex. Doc. No. 103 I find the following statement, which I will read to you :

August 5, 1867, Exall to Garth: "The ore which is now being gotten out will average per assay about \$75 per ton, but it comes in small quantities. The returns I brought from mint I brought down to E. P. & Co. to settle money borrowed from them to buy goods; their bills will be due next month and most of the returns from present run will have to be paid them. I hope to be able to settle up all the indebtedness of the company, both here and at the mines. E. P. & Co. are the only ones I am owing here.

Account of run by mill from 27th May to 13th July, inclusive: Amount of rock crushed 89 tons, 1,676 pounds producing 131 marcos 5 ounces refined silver, yielding at mint \$1,672.29.

Now, how do you explain the discrepancy between the results of this run, as stated in the "new evidence" offered by Mexico? You notice that 89 tons, but we will call it 90—

Mr. FOSTER. Nearly 90.

Mr. KENNEDY. For the sake of ease in computation. You notice that 90 tons yielded of refined silver \$1,672.29. Now, what is your explanation of that?

Mr. LINES. What is the discrepancy, Mr. Kennedy?

The WITNESS. That is within \$100, or very near it, of the estimate. I may have worked that a little closer. It being a free ore I may have got a little better percentage.

By Mr. KENNEDY :

Q. How much is that a ton in silver?—A. I have not calculated it.

Q. Well, you notice it is about \$18. Just pardon me a moment and I will calculate it.—A. When the ore was found to be low, Mr. Kennedy, they put men on the ore-pile and threw out anything that was considered valueless—put the best experts on it. It might have increased the value of it a little.

Q. Now, you notice the date of this report, August 5, 1867, and that it covered the period from the 27th day of May to the 13th of January, when you were there at the mine, and calling 89 tons 90 and dividing the proceeds—

Mr. FOSTER. Well, calling the 89 tons and 1,676 pounds 90 tons.

Mr. KENNEDY. Did you think I was making a point there?

Mr. FOSTER. Well, you are very accurate as to making your discrepancy between his estimate of \$16 and \$18.

Mr. KENNEDY. Well, I give you 90 tons, which is a little more than your claim, and I assure you it never entered my head there was a point there.

Q. But calling the quantity 90 tons, and dividing 1,676 by 90, we have over \$18 a ton. Now, the discrepancy that I want to have you explain is the discrepancy between this report which has been introduced by the Mexican Government and your letter of January 4, 1878, to Mr. Lines, in which you say that "the El Cristo ore I worked assayed \$11.50."—A. Well, that was a mistake on my part. It should be 11½ ounces.

Q. Well, calling it 11½ ounces, and supposing you intended to say ounces in your letter, where would that land you; in other words, what is the value of 11½ ounces of silver?—A. Eleven and one-half ounces of silver—at that time silver was par.

Q. Well, give us the value at that time. You were speaking, though, of a time ten years prior to that.—A. I have not calculated the value.

Q. How much is an ounce of silver worth?—A. An ounce of silver is worth \$1.2929.

Q. Well, let us multiply 130 by $11\frac{1}{2}$, and we have less than \$14.—A. Well, I report silver ounces now. There is a percentage of gold in all the El Cristo.

Mr. FOSTER. I make it 14.95. I do not know whether I am correct or not.

Mr. KENNEDY. You are right. It comes nearly to \$15, Mr. Elder.

The WITNESS. Well, there was always some gold in it. There was some gold in El Cristo all the time.

Q. But you are talking of the assays or results of reduction in both cases—the gold as well as the silver. Now, I want to ask you who it was that employed you to go as mill man to Tayoltita?—A. Colonel De Lagnel.

Q. When did he do that?—A. I think it was in May or June, 1866.

Q. Did he see you on that business at La Puerta?—A. Yes, sir.

Q. Now, can you state what arrangement he made with you?—A. It was nothing more than to go there and work at a certain income that was named. I do not remember what it was.

Q. You do not remember your salary?—A. No, sir.

Q. Now, you testified yesterday that one or more assays that you made for Colonel De Lagnel at La Puerta gave great results. Will you state again for my information what the results were?—A. I think we got \$260 a ton in gold.

By the CHAIRMAN:

A. In gold?—In gold; the samples he brought down to our place.

Q. El Christo?—A. Yes, sir.

By Mr. KENNEDY:

Q. Well, you did not know, Mr. Elder, where the samples came from, did you?—A. Nothing more than the colonel told me. He said the samples came from El Christo.

Q. Now, did you ever have any conversation with the colonel while he was superintendent in regard to a quantity of the ore that carried free gold?—A. They used to bring down samples from the mine. I did not see any of that in the ore that lay on the dump. Such ore as that would not be out on the dump.

Q. What would they do with ore that carried a good deal of free gold?—A. They would keep that in the house, the office.

Q. Why?—A. Well it was safer there.

Q. I suppose it would be more apt to be stolen, would it not?—A. If it was left out of doors.

Q. Yes.—A. Oh, yes.

Q. Now have you any recollection about having a conversation with Colonel De Lagnel with regard to that rich vein that was struck?—A. No.

Q. Don't you remember hearing about excitement among the miners?—A. Yes, they brought down some rich specimens there but I was led to believe that there was not much ore produced from that.

Q. Not much ore?—A. No, sir; not much ore produced from that.

Q. You mean the rich streak?—A. It was in small quantities.

Q. Do I understand you that you did hear about the miners striking such ore?—A. I heard such a thing talked of. I heard the colonel talk of it.

Q. Yes, that is all. Now, will you tell us once more, and more exactly if you can, when it was that your employment began at Tayoltita

and ended?—A. My employment began there in June, 1866, and my impression is that it ended about the 1st of October, 1867, probably the last of October. Oh, it was along towards the last of October; I remember straightening up around there.

Q. Now, do you remember how you drew your money?—A. I got paid in money from the office in Tayoltita.

Q. In what way; I mean how often, and in what sums?—A. Oh, I could not tell you.

Q. Well, give us an idea. I do not expect you to tell to a dollar.—A. I can not possibly do it. I can not possibly tell you because I might have went in and drawn \$25 or \$50.

Q. Well, if that is your recollection say so.—A. I drew money along. I don't remember how much the final payment was, or how much I drew.

Q. You testified that you waited some considerable time for Mr. Exall to get back with the proceeds of the bullion, and that the reason you waited was that you wanted your pay; that the company owed you an amount of money. Now I do not expect you to be able to tell to a dollar, or even a hundred dollars, how much it was, but I would like to ask you your best recollection of the amount you received in settlement when Exall returned?—A. I could not possibly give you any amount.

Q. Well how comes it that your recollection on a point that concerns you so closely as your salary is so poor?—A. Why it is so long ago. I have worked for many men.

By the CHAIRMAN:

Q. It does not concern you much now?—A. No, nor it did not concern me then to any great amount. I was getting my money and was ready to go away. I was satisfied I would get it.

By Mr. KENNEDY:

Q. But you can not give me any idea how much money you got when Exall came back from Durango?—A. No, sir; I can not.

Mr. KENNEDY. Now, Mr. Senator, will you let me have that letter that was handed to me yesterday.

Q. Before I ask you any questions founded on alleged facts in this letter I would like to ask you for the letter from the Mexican consul that was put in evidence yesterday. [Witness handed letter to Mr. Kennedy.]

The CHAIRMAN. Let me see that Mr. Kennedy, please. [The letter was handed to the chairman.]

By Mr. KENNEDY:

Q. Have you got the subpoenas or telegrams sent you by the sergeant-at-arms?—A. Yes, sir.

Q. Will you please produce them? [The witness handed them to Mr. Kennedy.]

The CHAIRMAN. Read them.

Mr. KENNEDY. I would like to offer these dispatches in evidence for the sake of getting in the response that Mr. Elder seems to have made to the first dispatch.

The CHAIRMAN. That is all right. Put them in with the answer.

By Mr. KENNEDY:

Q. Referring to the consul-general's letter, I want to ask you, Mr. Elder, whether you had written to Mr. Coney, or to anybody connected with the Mexican Government, in regard to your examination as a wit-

ness, before you received this letter of December 28, 1888?—A. I never did.

Q. How do you account for the receipt of this notice from the consul-general of Mexico at that time, which you are aware is previous to your subpoena from the Senate committee?—A. That is the first intimation ever I had of anything of the kind. I had that before I got the telegrams some time.

Q. You don't know how the consul-general obtained your address?—A. No, sir.

Q. You are aware that you are subpoenaed by the Senate committee and not by the Mexican Government, are you not?—A. I presume so, from the telegrams.

Q. You notice that my question was whether, before you received this notice from the Mexican consul-general dated December 28, 1888, at San Francisco, you had had any correspondence with him or with anybody else connected with the Government in regard to your examination here?—A. I never have received—not one word passed between me and any one else.

Q. And you have no explanation of the fact that you received this notice from the consul-general of Mexico nearly a month before you were subpoenaed by the committee?—A. I have no explanation of it at all.

Mr. LINES. You do not mean to refer to letters which he wrote to me?

Mr. KENNEDY. No; that is ten years ago. Now, Mr. Chairman, I am through with this witness except the introduction of the telegrams and his replies, and those can easily be added by the stenographer.

The CHAIRMAN. Let them go into the record.

Re-direct examination by Mr. LINES:

Q. Mr. Elder, when did you first hear of the claim of La Abra Mining Company against Mexico?—A. I first saw it in the newspapers. The first I saw of it was in the telegraphic dispatches.

Q. After the award was made?—A. Yes, sir.

Q. And then what did you do; did you write to anybody?—A. I wrote to Romero, I believe.

Q. You wrote to the Mexican minister?—A. Yes, sir.

Q. Do you know whether it was to Mr. Romero or to Mr. Mata?—A. I don't remember.

Q. Is that the letter of November 12, 1877, the first letter of this series?—A. I don't remember; but I wrote to them, and they referred me to you, was about the way the correspondence came around with you, Mr. Lines.

Q. I will hand you this letter for the purpose of refreshing your recollection. You will see that it is not addressed.

The CHAIRMAN. Whose handwriting is it in?

Mr. LINES. It is introduced, Mr. Chairman, but there is some mistake about its having been addressed to me in the introduction of it.

Mr. KENNEDY. Well, we will admit it was addressed to the Mexican minister.

Mr. LINES. I just want to get the fact.

Mr. KENNEDY. Well, sir, we will admit that.

By Mr. LINES:

Q. Now, Mr. Elder, you said yesterday that in 1867 or 1868 you got a letter from General Bartholow. I understand you to-day to say that that was a mistake and that the only letter you received from him was in

1878 ?—A. That is evidently a mistake of mine yesterday, as I never received but that one letter.

Q. Now from the beginning of 1868 until 1877 you knew nothing about this claim having been made by La Abra Company against the Mexican Government ?—A. Not a thing.

Mr. KENNEDY. Well, just for the sake of having a correct understanding of the witness's statement I would like to suggest to my friend, Mr. Lines, that the witness testified that he saw in the newspapers the fact that La Abra Company had obtained an award, and that the date of the award is prior to the time that you mentioned to the witness.

Mr. LINES. I understand that, Mr. Kennedy.

Mr. KENNEDY. All right.

By Mr. LINES:

Q. State what was the nature of the publication you saw. Was it merely the fact that an award had been made, or that there were some proceedings here in reference to the award ?—A. The mere fact that I saw was the newspaper article ; merely the fact that there was an award against the Mexican Government. There was no great length to the article. It was merely, it appears to me, a telegram to the Pacific coast.

Q. Did it not say that there was an effort on the part of the Mexican Government to secure a rehearing of the case ?

Mr. KENNEDY. Now I object to that, Mr. Chairman, because this is redirect examination of the witness. That question is so purely leading and modifies the witness's statement of the matter so entirely, that it strikes me as being improper.

Mr. LINES. I will withdraw the question.

Q. Now, was there any reason that you know of why La Abra Company could not have found you and secured your evidence, if it had wished it, in support of its claim against Mexico ?—A. I really don't know.

By Mr. FOSTER:

Q. What is your answer ?—A. I really don't know whether there is any reason why they should or not. In 1868 I was 250 miles east of San Francisco in a smelting works in a mining camp.

By Mr. LINES:

Q. Was there any concealment of your whereabouts on your part ?—A. Oh, no ; only it was a very out-of-the-way place, but then we had mails.

Q. Would a letter addressed to San Francisco have reached you ?—A. Yes, sir.

Q. Did Mr. Exall know when you left the mines that you were going to San Francisco ?—A. Yes, sir.

Q. So that if the company had wished your testimony they could have found you ?—A. Possibly they could.

Q. Now, with regard to these letters again, that you wrote to Mr. Mata and myself ; you have testified that the answers to them were destroyed, to the best of your recollection. I want to ask you whether these letters of mine were placed with the memoranda of assays that you spoke of and the letter of Mr. Exall that you spoke of, and destroyed in the same way ; is that what you meant to say ?—A. It is my impression—now, it has been in 1877 or 1878—since then I have not seen the locality that they were in, but as I said, I wrote, and the word I got was that they had all been destroyed.

Q. I want to read a little correspondence on the subject of my letters to you, and to get the fact from you whether the statements in that correspondence are correct. The letters have been printed.

MR. KENNEDY. Before you do that, Mr. Lines, let me say to the chairman that I would like to inquire what it is that Mr. Lines proposes to read to the witness; that is, whose statements and for what purpose?

MR. CHAIRMAN. Submit them to Mr. Kennedy, Mr. Lines, and let him examine them.

MR. KENNEDY (after examining letter). Well, Mr. Senator, this letter and the one that is indorsed on the back of it seem to me to be clearly inadmissible. My questions to the witness in cross-examination were in regard to his own letters. Mr. Lines produces a letter signed—

MR. LINES. My letters to him also.

MR. KENNEDY. Yes; but that is a correspondence in which the witness was one of the actors. Here is a letter signed by B. Wilson, and headed House of Representatives, Washington, D. C., June 6, 1878, addressed to General Bartholow. Now, if Mr. Lines will permit me, for the sake of making my objection now, I will read the letter and then the chairman can rule upon its admissibility.

The CHAIRMAN. Well, you want to read both of them?

MR. KENNEDY. Yes; I will read both the letters:

General BARTHOLOW:

MY DEAR SIR: Mr. Lines desires to see the letter, that is said to have been written by him to Mexico, I returned to you. I find that I have only the N. Y. original papers. You have the others, of which you gave me copies, attached to your affidavit.

MR. L. desires to see whether it is *his* letter. Let him see it.

Yours, truly,

B. WILSON.

Now, my first point is—

MR. LINES. No, read the other letter.

MR. KENNEDY. Yes, but if you will pardon me I want to make my points as I go along. My first point is that the letter alluded to here is clearly not a letter written to the witness. The letter is described as being a letter written by Mr. Lines to *Mexico*. Now, the letter on the back in pencil is:

Col. BEN WILSON:

DEAR SIR: You must be mistaken in your having returned to me the letter Mr. Lines wrote to Mr. Elder. I have not got it and it must be among the papers given you by Mr. Ely.

Truly, yours,

T. K. BARTHOLOW.

My second point is that there is evidently a misunderstanding between the writers of these two letters in regard to the identity of the missing letter, Congressman Wilson thinking that the letter that was sought was a letter written by Mr. Lines to Mexico, which the Congressman says that he returned to General Bartholow, and General Bartholow replying that the Congressman "must be mistaken in your having returned to me the letter Mr. Lines wrote to Mr. Elder."

The CHAIRMAN. What purpose do you offer that for?

MR. LINES. I want to ascertain if I can, sir, what became of those letters.

MR. KENNEDY. There is only one letter spoken of there, Mr. Lines, and it is a letter that you wrote to Mexico, according to the man who was supposed to have possession of it.

The CHAIRMAN. What point do you count upon?

MR. LINES. There has been some testimony about the correspondence

Mr. Elder and I had, and Mr. Elder has testified that these letters were destroyed to the best of his recollection; that he was so informed. Now, this letter of Mr. Bartholow to Col. Ben Wilson, written at the time this act of 1878 was under discussion, indicated that Mr. Bartholow or Mr. Wilson, one or the other, had possession of a letter which I wrote to Mr. Elder. I want to ascertain, and I think it is perfectly competent, whether these gentlemen were negotiating with Mr. Elder for the purchase of my letters or not; and if not, then I propose to get the statement out of the witness, and it will dispose of this assertion on the part of General Bartholow that they had my letters.

Mr. KENNEDY. Mr. Chairman, it is clearly improper for Mr. Lines to impeach his own witness. This witness, on cross examination, has sworn over and over again that he never sold, or offered to sell, any letter which he had ever received from Mr. Lines or anybody else to La Abra Company, and the letter to which Congressman Wilson alludes is evidently not one of the eight letters which were offered in evidence yesterday as having passed between Mr. Lines, on behalf of the Mexican Government, and this man. Col. Ben Wilson says that the letter which is referred to is a letter that Mr. Lines wrote to Mexico.

Mr. LINES. Let me see if we can not avoid all this long discussion about it.

Mr. KENNEDY. You can ask the witness anything you like about your eight letters.

By Mr. LINES:

Q. Did any of those letters which I wrote to you, to your knowledge, ever come into the possession of General Bartholow or any person connected with La Abra Mining Company?—A. To the best of my knowledge and belief, not one line of any of them.

Q. So that if any statement to that effect had been made by General Bartholow or anybody else, it was not true?—A. I do not recollect of ever speaking to any one, or having any line from them in any way.

Q. Now, will you tell us, Mr. Elder, what there was, to the best of your recollection, in the letter which you received in 1878 from General Bartholow, and about which you wrote me on the 8th of April, 1878—state the substance?—A. The substance of the letter was, I inferred from—

Mr. KENNEDY. Don't state what you inferred.

A. Well, he merely criticised the difference in the result and the assay that had been made. He spoke of these ores having assayed so high—from \$1,000 to \$1,500 and \$1,800. Well, if I could have talked with the general a few minutes I would have said it is a very easy matter to get ore that will assay most any amount, yet mill samples are the truest test of the value of ores. That was the amount that passed between us.

By Mr. LINES:

Q. Was there anything in that letter showing what called it forth, why it was written to you?—A. No, there was nothing in that; he referred to my assays and to my results of the assays, why it was that the ore was so low.

Q. Did he say that he had seen the correspondence?—

Mr. KENNEDY. One moment, Mr. Lines. You are too good a lawyer not to know that when you are examining your own witness on the redirect you can not put words in his mouth. You have a perfect right to ask him what was in that letter and to press him on any point, but you can not ask him a leading question.

By Mr. LINES :

Q. Well, what appeared to be from that letter its——

Mr. KENNEDY. I object to that; no appearances here.

By Mr. LINES :

Q. From your recollection of that letter, Mr. Elder, what was the reason, as expressed in it, if any, for General Bartholow's writing to you at all?

Mr. KENNEDY. Now I object to that, Mr. Chairman, because that seeks for a conclusion regarding the motive of the writer.

Mr. LINES. No, no; I say as expressed in the letter.

The CHAIRMAN. As expressed in the letter. Mr. Witness, just proceed and give, as fully as you can, now, the contents of that letter.

The WITNESS. I can give no other reason——

Mr. KENNEDY. No; that is not it. The chairman asks you to give your best recollection of the contents of that letter.

The WITNESS. Well, I have stated that all there was of it was that he seemed to be dissatisfied with my returns of assays; wanted to know why, if I was certain I was correct, that those ores did not go better; that he had had much better results.

By Mr. LINES :

Q. No; but this was in 1878. You were not making any assays then.—A. No; but I had made assays.

Q. Well, had they just come to General Bartholow's attention?—A. Well, it was the first time he had written or that had been brought to my notice.

Q. You were asked concerning the letter addressed to me on the 4th of March, 1878, in which you say, "I will not at present dispose of the memoranda and letter" you spoke of. You were asked by Mr. Kennedy whether that letter—the letter you spoke of—was the letter you received from General Bartholow, which appears in the succeeding letter to you to have been dated March 24, 1878, and I understood you to say in reply that that was your recollection of the matter; that that was the letter referred to?—A. That was my recollection of it.

Q. Well, I want to call your attention to the fact that your letter to me saying that you would not "at present dispose of the memoranda and letter" you spoke of, is dated on the 4th of March, 1878, and that in your letter of April 8, 1878, you speak of General Bartholow's letter as being dated on the 24th of March, so that it could not very well be.

Mr. KENNEDY. Well, ask him to explain the discrepancy.

By Mr. LINES :

Q. Well, yes—A. I can not explain it——

Q. Well let me ask you whether there was not another letter about which we had been corresponding, to wit——

Mr. KENNEDY. Well, don't tell him what the letter was. You have asked him the question, let him answer it.—A. There may have been other letters, but I don't remember any other letter, but I probably had, but I attached so little importance to it and since then it has been clear out of my mind.

By Mr. LINES :

Q. You say in December 6, 1867, that you have a letter of recommendation from Mr. Charles H. Exall as to your efficiency as an assayer. Now, I will ask you whether that was not the letter to which

you referred in your letter to me of March 4, 1878 ?—A. That may have been.

Q. In connection with the memoranda of assays ?—A. That may have been the letter.

Q. Do you recollect in a general way very much of the contents of the letters which I wrote you ?—A. No; I do not.

Q. Was there any offer to you by me to pay you for any testimony that you might give in this matter ?—A. No, sir. The only things I ever asked, I believe, was that my expenses be paid here and the amount of wages I was earning, during my coming and going.

Q. Yes, so I understand. Now, do you remember my reply to your suggestion ? That was on the 29th of May.—A. I do not remember the replies.

By the CHAIRMAN:

Q. What year was this you speak of ?—A. 1877 and 1878.

By Mr. LINES:

Q. You are positive that there was no offer of any kind in any of my letters to induce you to testify ?—A. No offer, and I never asked or expected more than my expenses, but I thought there was a great amount of money pending, and if anybody generously should give me more than my expenses, why, if my evidence was considered decisive—

Q. Do you remember—

Mr. KENNEDY. Let the witness finish.

A. That is all I intended to say.

By Mr. LINES:

Q. Do you remember anything in the nature of an explanation in my letters to you why it was improper to make you any offer ?—A. I do not; I do not remember.

Mr. LINES. Mr. Kennedy I would like to have you state, if you will, whether La Abra Mining Company has, or pretends to have, any of my correspondence with Mr. Elder.

Mr. KENNEDY. Not to my knowledge, Mr. Lines. The fact is, it is only within the last week or two that I have had much to do with this case. If it had not been for the bereavement in the family of Judge Shellabarger, he probably would have been here or Judge Wilson, instead of myself, in these later sessions.

Mr. LINES. Well, will you ascertain that and inform the committee, because if these letters have been secured in any way—I do not mean by that to impeach Mr. Elder's testimony about it, because they may have been procured from somebody else—if they are in your possession we want to see them.

Mr. KENNEDY. I will say to the counsel that if La Abra Company has possession of any of Mr. Lines's letters addressed to Mr. Elder we will produce them, but my impression is that La Abra Company has not now, and never had, any of Mr. Lines's letters to Mr. Elder.

The CHAIRMAN. How did they get into this record, then ?

Mr. KENNEDY. The Mexican Government, Mr. Chairman, printed these letters.

Mr. LINES. Those are Mr. Elder's letters to me.

Mr. KENNEDY. The Mexican Government printed the letters of Elder to Mr. Lines as part of their new evidence offered for the purpose of upsetting the award.

By Mr. LINES:

Q. Now, Mr. Elder, when you went to Tayoltita from La Puerta you

were engaged in the erection of a mill. Were there any old reduction works on the Mexican process standing at Tayoltita at that time?—A. No; it had been torn down before I got there.

By the CHAIRMAN:

Q. Mr. Elder, I would like to ask you a question right there. What has been your experience and observation as a miner in Mexico as to whether the Mexican process of getting metal from ores was as good as that of the American invention as they had it there?—A. It was just as good as any that ever worked ores.

Q. You think that the introduction of American machinery out there has not really facilitated mining operations?—A. No, it has made it more rapid, but it never worked ores any closer than the Mexicans worked them.

By Mr. LINES:

Q. Now then, you found a large amount of ore on the patio when you went there?—A. Well, the ore came down more after I went there than was there when I went.

Q. Could they have been reduced by the old process if those works had not been destroyed?—A. By the old process?

Q. Yes.—A. Oh, there was not money enough in them for anybody to reduce them.

By the CHAIRMAN:

Q. Well, was it practicable to reduce them is what he means?—A. No; it was not profitable to reduce them.

Q. It was not profitable, you mean?—A. No, not profitable.

By Mr. LINES:

Q. What I want to know is whether, if the old works had been allowed to stand, the company could have found out what there was in those ores before erecting their stamp-mill?—A. Well, no: it was not at all practicable to undertake it.

By the CHAIRMAN:

Q. Why?—A. Why the ores carried a great deal of sulphur and antimony and some lead, and they could not be worked; it takes so long to work them.

Q. You mean they had to be smelted?—A. They had to be roasted.

By Mr. LINES:

Q. No, but I understand you that they were not roasted as a matter of fact?—A. The El Cristo ore was free-metal ore, but the ore you speak of, of the company on the patio, these 500 tons were of a rebellious nature.

By the CHAIRMAN:

Q. That is a new fact; I did not know about that. Where did this rebellious ore come from?—A. La Luz and El Rosario.

Q. Any from the others?—A. I am not positive about that.

Q. The El Cristo ores were free milling ores?—A. Yes, sir.

Q. And they could be reduced, extracting the metal by the Mexican process?—A. Without roasting.

Q. And those other ores, being rebellious, could not have been reduced by the Mexican process?—A. Well, it would take from sixty to eighty days.

Q. Well, as a question of business, they could not have been reduced?—A. No, as a question of business they could not.

Q. The business would not have been successful?—A. No, sir.

Q. What was the roasting process, as requisite to reduce those rebellious ores?—A. It was to put them in a reverberatory furnace about 9 by 12 feet; a door here, and one door right across, with a hole between about 18 inches high, where they would be roasted. That would desulphurize them.

Q. What fuel would you use?—A. Hard wood of that country.

Q. You would not have to reduce them by charcoal?—A. Oh, no; the flame was better.

Q. And that was requisite before you could make a profitable transaction of getting the metal, whatever there was in those ores, out of those rebellious ores?—A. Yes.

Q. Was there any reverberatory furnace up at the Hacienda La Abra mines?—A. Yes, sir.

Q. There was?—A. Yes; there was a very good one there.

Q. Now, was it necessary that these ores should be crushed before they were put in the reverberatory furnace?—A. Yes; very fine.

Q. And the outcome of that would be a mat?—A. No, sir; not a mat; they would merely be oxidized; the sulphur would be driven off and the ore would be oxidized. Now, we supposed these ores would be about \$300 a ton. It cost \$12 to roast them and added salt after roasting them; then draw them out on the other side and then these ores go into the pans, and then working in the pan we would have whatever silver there was.

Q. What do you mean by a pan?—A. The pan is 5 or 6 feet across, an iron pan that has a grinder on here [indicating] that will weigh 2,000 pounds; that goes down by a screw that grinds them.

Q. Were those ores drawn off from the reverberatory furnace and then carried to the pans?—A. They would have been, but they could not work; were not able to work any of these rebellious ores.

Q. But, in order to treat these rebellious ores they would have to be carried off to the pans and then treated with what?—A. Quicksilver, some more salt added, and some sulphate of copper.

Q. So that it takes three processes to get the metal out of these ores; first, they are to be ground; second, they are to be treated in the reverberatory furnace, and then they were drawn off in the form of—
A. Dry, pulverized ore.

Q. Dry, pulverized ore, and then they were again pulverized?—A. Yes; and ground in the pan.

Q. Ground in the pan and then treated with quicksilver and other fluxes?—A. Treated with quicksilver and salt right in the pan and ground there for four hours.

Q. But you did not do any of this with the rebellious ores at La Abra?—A. No, sir.

Q. They staid there but were not treated in this way?—A. Not treated at all.

Q. You waited for the mill to be put up?—A. The mill was up and I worked 250 tons of ore from the mill. These ores did not carry enough money to justify working.

Q. Do you mean to say that that bank of rebellious ores was never worked up?—A. Never were.

Q. And the reason why it was never worked up was the ores were rebellious and would not pay for working?—A. No, sir.

Mr. FOSTER. For your information, Mr. Chairman, I will say that he has already said that after he made the first run of ore from El Cristo the superintendent asked him to take a specimen from all the mines,

which he did, amounting to a ton or more, and made a reduction of all those ores.

The CHAIRMAN. Well, that was only a sample test.

Mr. FOSTER. A sample test, but through the mill.

The CHAIRMAN. I understand; but the point I want to get at through this gentleman is whether any actual demonstration had been made, in a practical way, of the value of these ores treated in the way that he speaks of—I mean pulverized, put in a reverberatory furnace, taken out in the pan, and treated with quicksilver and other fluxes. I wanted to know whether those rebellious ores had ever been treated in that way.

The WITNESS. They never were treated in that way.

By the CHAIRMAN:

Q. So that the value of the ores in that pile that were called rebellious was simply problematical?—A. From assays we consider that we can always tell how much is in it.

Q. You can tell how much metal there is in a ton of ore from an assay, but I suppose you could scarcely tell what the expense of reducing it would be.—A. No, we could not tell very well; could tell very near it.

By Mr. FOSTER:

Q. You say, "very near it?"

By the CHAIRMAN:

Q. Well, if you can come very near the expense of the reduction of these metals—rebellious metals I am now speaking of—would you say they were of sufficient value, commercially, to authorize their being carried through the mill?—A. No, sir.

Q. It would not pay?—A. It would not pay.

By Mr. LINES:

Q. How long was La Abra Company in building its mill from the beginning?

The CHAIRMAN. I would suggest to you that Colonel De Lagnel gave all that.

Mr. LINES. I do not think that on this point Colonel De Lagnel knows much.

The CHAIRMAN. Was there any construction before De Lagnel got there?

Mr. LINES. I believe there was.

The WITNESS. Oh, yes.

By the CHAIRMAN:

Q. Bartholow began it?—A. Bartholow began it.

By Mr. LINES:

Q. About what time was it begun?—A. I can not remember that; I was not there when it was begun.

Q. Under General Bartholow, however, and when completed?—A. Completed about March, 1867, I believe, the mill ran first.

Q. Would that be a year or more that the mill was in process of construction?—A. I can not tell when it was commenced.

The CHAIRMAN. De Lagnel gave those dates, as I remember it.

Mr. LINES. De Lagnel was not there all the time.

Q. When were the Mexican works—the Arastra, I presume, the grinding affair there—when were they destroyed and by whom?—A. I can not tell you.

By the CHAIRMAN:

Q. Were they not in a condition to be operated when you were there?—

A. No, sir.

By Mr. LINES:

Q. Do you know where they stood?—A. They stood right where the mill was.

Q. So that the stamp mill was erected on the site of the old reduction works?—A. Yes.

Q. Then, I suppose the old reduction works were torn down before anything was done towards erecting the mill? Now, you say these rebellious ores could not have been profitably worked by the old Mexican process. Could they or could they not have been worked to an extent sufficient to ascertain what their value was if the old reduction works had been allowed to stand?—A. Why, they did not anybody want to go to that expense; they could do it so much cheaper. Of course it would take some time to grind ores in the arastra—fifty or sixty days.

Q. Well, these rebellious ores could not be benefited under the Mexican process so as to make any profit at all?—A. No, sir.

Q. Had to be done by reverberatory furnace?—A. Had to be done by reverberatory furnace.

Q. What I meant to ask is, whether this company could not find out whether these ores were rebellious?—A. Do you mean El Cristo?

Q. The El Cristo or the others?—A. They are very different. The free milling ones of El Cristo were subject to be profitably treated under the system of Mexico, whereas rebellious ores could not be treated with any degree of success except in a reverberatory furnace.

By Mr. LINES:

Q. Do you know, Mr. Elder, whether any assays of these rebellious ores were made before the time when Colonel De Lagnel became so disappointed as to results?—A. Not to my knowledge. The fact is those ores were cleaned at the mines by what are called limpiadores, men who clean the ores, and they were supposed to be rich. They were well calculated to deceive most any one. They were so heavy in antimony and the little lead and silver as to make them heavy, and of a dark color, and they would naturally suppose that they were very rich ores, and nothing but an assay would decide that they were not.

Q. Now, El Cristo ores could have been treated successfully by the old process?—A. Why, yes.

Q. Do you know whether that was or was not the process that had been in use there before the company went there?—A. The old process; they worked ores right along.

By the CHAIRMAN:

Q. Let me ask you how you get rid of the antimony?—A. It is very volatile; the heat will drive it off.

Q. It requires a reverberatory furnace?—A. Yes.

Q. You have no fluxes to take it out?—A. No, sir.

By Mr. LINES:

Q. Then the first thing, as I understand, the company did (let me ask if that is a correct understanding) was to destroy the old Mexican process of reduction for the purpose of putting on its site the new stamp mill?

Mr. KENNEDY. I object to that for two reasons: First, that the witness has testified that the old Mexican works were torn down before he arrived—

The CHAIRMAN. Yes; I think that is rather argumentative than otherwise.

Mr. KENNEDY. And, second, that it puts the answer right in the witness's mouth.

The CHAIRMAN. It is an argument.

By Mr. LINES:

Q. Mr. Elder, could the El Cristo ores, supposing they would have been sufficiently valuable, have been worked in such a manner as to pay a portion of the expenses of the company if the old Mexican reduction works had been allowed to stand while the new stamp-mill was being completed?

Mr. KENNEDY. I object to that.

Mr. LINES. What is the ground of your objection?

Mr. KENNEDY. That calls for a conclusion from the witness. He has already testified that the advantage of American machinery consists in enabling the miners to reduce ore in much greater quantities, and he has explained that the Mexican operation is slow.

The CHAIRMAN. It seems to me that the witness has explained it all, anyhow, sufficiently, because he has stated that El Cristo ores could be reduced on the Mexican arrastra system, and the first operation that they did there was to take out the arrastra and on the site of it put the crushing mill. Of course they took the chances there of postponing the reduction of El Cristo ore from the arrastra system to the system of the American mine. Whatever time was lost in that, of course, was lost to the company. But he has stated, as I understand it, that those El Cristo ores could have been treated on the arrastra system if they had chosen. While they were progressing with this other work it would have been good policy to have done it. There can be no question of that.

By Mr. LINES:

Q. Which were supposed to be the most valuable ores when—

Mr. KENNEDY. I object, because it is calling for the supposition of the witness. You can ask what any officer of the company said to him about that; you can ask him for any personal knowledge from assays he made, but when you call for suppositions as to which ore was most valuable, I think it is open to objection.

Mr. LINES. He has testified, Mr. Kennedy, that the ore from El Cristo was divided into first and second class, and we examined him at great length on that. Now, I want to ask him, as between El Cristo and other mines, which were regarded as most valuable.

Mr. KENNEDY. You can ask him which he regarded most valuable.

The CHAIRMAN. He is an expert. You had better confine your question to that.

Mr. LINES. Very well. Which did you regard, from appearances, as the most valuable?—A. I regarded La Luz as being the richer ores, from appearances.

By the CHAIRMAN:

Q. Because it contained gold?—A. It did not carry much gold, but because of its high color.

Q. Which did you think was the next most valuable ore?—A. El Cristo.

Q. The next?—A. El Rosario.

Q. The next; were no La Abra ores in these?—A. I am not positive there was.

Q. And the opinion you formed as to the value of the ores was founded upon their general appearance?—A. Yes.

Q. Not upon the test of analysis?—A. Not upon the test.

By Mr. LINES:

Q. Now, when the test came—in 1867, was it, that the assays were made—it, turned out La Luz was——

Mr. KENNEDY. Ask him what turned out.

Mr. LINES. I am putting the interrogatory.

Mr. KENNEDY. But this is your witness, you can not cross examine him.

Mr. LINES. I am trying to get a connected statement of something that you put in a disconnected way.

Q. Did it turn out the La Luz mine was more or less valuable than El Cristo?—A. The assays showed that the El Cristo was the best ore.

Q. What was the difficulty, Mr. Elder, if any, in having made these assays at the start, discovering what the mines were actually worth before putting up the stamp-mill?—A. There did not seem to be any anxiety, having the word of these men who handled the ore for many years that such a pile of ore was worth so much per carga, and that one so much. First and second-class ores were taken from that mine.

Q. That is not quite an answer to my question as to the reason for their not having made the assays. Could the assays have been made at any time; was there any difficulty about it had they chosen to do it?—A. The assay outfit was not there until I went there. I took my own assay outfit there.

Mr. KENNEDY. That explains that perfectly satisfactorily.

Mr. LINES. I am glad you are satisfied.

Q. Were there any assayers in San Dimas or near there before you joined the forces of the company?—A. There was none nearer than myself.

Q. Well, do you know of any reason why they could not have had this ore assayed by sending some to San Dimas?—A. The fact is the ores were not brought down until a large amount was accumulated at the mine, and they brought it down very rapidly.

Q. Well, could they not have brought sufficient from the mines to make assays?—A. They might have.

Q. When you did make the assay, I understood you to say that Colonel De Lagnel checked your assays by sending the samples to Mr. Rice. Did you say that Mr. Rice corroborated your assays?—A. Yes, sir.

Q. Were these assays made just before Colonel De Lagnel left for New York?—A. Yes, sir.

Q. Do you know where Mr. Rice is?—A. He is dead.

Q. Do you know whether he was in Mexico for any length of time after the La Abra Company?—A. He left before they did.

Q. Do you know anything about his relations with the officers of La Abra Company?—A. He did not have any—that is, what do you mean, friendly or otherwise?

Q. Yes.—A. Oh, they were on good terms.

Q. Did you know his whereabouts after he left Mexico?—A. I know he was at San Francisco; he was in California.

Q. Do you know any reason why he could not have been procured as a witness?—A. Oh, Mr. Rice died of pneumonia very soon after at Oakland.

Q. About what year?—A. I think about 1863 or '64 or '65.

By Mr. FOSTER:

Q. You mean '73 or '74, do you not?—A. Yes; '73 or '74 or '75. I

S. Doc. 231, pt 2—41

know he was sent out to Nevada and came back with pneumonia, and died very soon after that.

Q. Do you know when this claim was filed?

The CHAIRMAN. The record contains that; it is not necessary to go into that. Mr. Kennedy, are you going to use those telegrams?

Mr. KENNEDY. Yes; and in connection with the letter you received from Mr. Gillespie, I want to ask the ordinary question to lay the foundation for impeaching this witness. Mr. Elder, will you examine this telegram of January 15 to W. P. Canaday, United States Senate, Washington, and say whether it is a correct transcript of the message which you sent to him?—A. That is an answer that I sent.

Q. Now, here is another telegram dated January 16, Santa Clara, Cal., addressed to W. P. Canaday, and I would like to ask you if it is a correct transcript of the original sent by you?—A. Yes, sir.

Q. Now, I show you a telegram dated San José, addressed to W. P. Canaday, and ask you if it is a correct transcript of the original sent by you?—A. Yes, sir.

The CHAIRMAN. The telegrams and answers had better be inserted in the record in their regular order. (They are as follows:)

WASHINGTON, D. C., January 14, 1889.

A. B. ELDER:

You are hereby commanded to appear before Senate Committee on Foreign Relations forthwith to testify on La Abra claim against Mexico. You will be allowed mileage at the rate of 5 cents per mile each way, and will be allowed \$3 per day while detained there.

If you accept telegraph me immediately and come on at once and report to me on arrival.

W. P. CANADAY,
Sergeant-at-Arms United States Senate.

SANTA CLARA, CAL., January 15, 1889.

W. P. CANADAY,
United States Senate, Washington:

I must see money and more than you offer before I leave home.

A. B. ELDER.

WASHINGTON, D. C., January 15, 1889.

A. B. ELDER:

You will be allowed more than the law allows and the United States Senate commands you to come. Answer.

W. P. CANADAY,
Sergeant-at-Arms United States Senate.

SANTA CLARA, CAL.,
January 16, 1889.

W. P. CANADAY,
United States Senate, Washington, D. C.:

I am not of the kind that works for \$3 per day, nor will I leave here without money to pay all expenses liberally, and I will come near having something to say about it.

A. B. ELDER.

SANTA CLARA, CAL.,
January 16, 1889.

W. P. CANADAY,
Sergeant-at-Arms, Washington:

Sent \$500. Will leave on 20.

A. B. ELDER.

SAN JOSÉ, CAL.,
January 18, 1889.

W. P. CANADAY,
Sergeant at-Arms, United States Senate:

Will mileage be paid on my arrival? Answer to Santa Clara.

A. B. ELDER.

By the CHAIRMAN :

Q. Why was it, Mr. Elder, that you demanded money before you would obey that subpoena?—A. I did not have the money to come on, Senator.

Q. Was your purpose in sending that answer to extract more than was the requisite compensation for your loss of wages and time and expenses in travel here and back? Did you expect to extract from anybody, especially from the Sergeant-at-Arms of the Senate, any more than the sum that was requisite to pay your way?—A. I did not think that 5 cents a mile would pay my expenses; I was not certain.

Q. But \$3 a day were allowed?—A. Well, \$3 a day was allowed only while I was here, and I did not think 5 cents a mile would pay my expenses from there here the way affairs had been.

Q. Are you a man of any considerable means?—A. No, sir.

Q. Work for your living?—A. I have an orchard and vineyard that produces something, but this is not the time of year that I can get anything from it.

Q. Was it your purpose to sell your testimony for a high price and get compensation for your expenses and loss of time?—A. I was my purpose to get compensation for expenses and loss of time.

Q. Did you have any thought that the Sergeant-at-Arms would wish you to swear any different from what you knew in this case?—A. No, sir.

By Mr. LINES :

Q. Mr. Elder, did you ever testify in a contest between individuals as to a mine?—A. As to a mine?

Q. Yes.—A. Never. I don't think I was ever summoned as a witness.

Q. Have you ever given testimony as an expert in mining matters or any other matters?—A. No. I have often went and examined mines.

By the CHAIRMAN :

Q. But you were not examined as an expert witness, I suppose?—A. No, sir.

The CHAIRMAN. Oh, well, it is very customary, everybody knows; I suppose that Mr. Lines is getting at that; it is very customary to pay expert fees in mining cases. I recollect we had a contest of that sort in the Senate over the testimony of Clarence King. I think it is all wrong.

The WITNESS. I have been employed to go and examine mines and make reports on them.

Q. But not as a witness?—A. No.

Mr. KENNEDY. It is—

Mr. FOSTER. Mr. Kennedy, before you proceed with what you have in hand, it will be well to state what occurred yesterday, and the notice given to you by Senator Dolph. I think Mr. Kennedy and I can agree upon the substance of it, that if he proposes to attack this witness as to the truth of his statements, he must lay the foundation for it in the manner required in a court of justice.

The CHAIRMAN. Mr. Dolph mentioned that to me yesterday, when he informed me that he was about to go away to Princeton, and if Mr. Kennedy offers that testimony for laying the predicate to impeaching the witness here, he must proceed according to the rules of the law, and require that his attention may be called to the occasion and time, whatever it may be, at which certain declarations were alleged to have

been made and the person to whom he made the declarations. That is all.

Mr. KENNEDY. Mr. Chairman, I had no other purpose than to do exactly as you have said, and for my own sake I ought to say that yesterday—and I suppose it is that point to which my friend, Mr. Foster, alludes—

Mr. FOSTER. No, it is the point just explained. I did not know that the chairman had had any conference with Senator Dolph. I simply wanted to call his attention to that.

The CHAIRMAN. Well, proceed, Mr. Kennedy, if you please, to lay your predicate.

By Mr. KENNEDY :

Q. I want to ask you, if you please, Mr. Elder, whether on or about the 19th day of January—

Mr. FOSTER. The present month.

By Mr. KENNEDY :

Q. Whether on or about the 19th day of January, 1889, while you were crossing the bay in California on a ferry-boat you met a man by the name of Alexander S. Gillespie, or any man at all, to whom you said that you had been subpoenaed to Washington City to testify in reference to some old claim between American capitalists and the Mexican Government; that you were an assayer of minerals, etc.; that the claim was about some mines in Mexico; and whether you further stated that the Mexican Government had promised you \$50,000 if you would give evidence favorable to them. Also, whether you said that unless the other party gave you more money you would likely give the kind of evidence required?—A. I met a man on the ferry and we were talking. He said he was a blacksmith; said he had been here, and I told him. He asked me which way I was traveling, and he had been to San José hunting a job as a blacksmith. I told him I was coming to Washington, and I said I had been summoned there by telegraph of the Sergeant-at-Arms of the United States Senate in an award claim of some citizens of the United States against the Mexican Government. He remarked, "Is there much money depending?" I said: "Yes, I think there is nearly \$1,000,000." "Well," he says, "they ought to pay you well to go on such a trip as that." Now, as to my saying that the Mexican Government had offered me \$50,000, that I never said. There was talk that they ought to pay me for a trip of that kind. I said, "I presume they will pay me. I don't know, but the Sergeant-at-Arms says I will get 5 cents a mile. It will be almost like riding on the boom to get there and back." I says, "If anybody gives me anything it will be voluntarily." I says, "I can not demand anything for my evidence." What I know is simply what I knew at the mill, and the thought of getting any stipulated amount has never entered my head.

Q. Did you say anything about the other party?—A. La Abra!

Q. The company?—A. Not a word that I recollect of; not one word.

Q. So you say there is absolutely no foundation, in fact, for the statement that you said that unless the Mexican Government gave you what you wanted—

Mr. FOSTER. Fifty thousand dollars, it is estimated.

By Mr. KENNEDY :

Q. Fifty thousand dollars. I will put this in the words of the letter. So you say that there is absolutely no foundation in fact for the statement that you said that unless the other party gave you more money

you would likely give the kind of evidence required?—A. No; I don't think I ever said any such words.

Q. Do you swear to it? It is a matter that concerns you to the very marrow as a man. Now, I ask you if you swear that you never said anything of that kind to this man?—A. To the best of my knowledge I never said any such words.

Q. Did you report to the Sergeant-at-Arms when you arrived in Washington?—A. I did not.

Q. How long were you in Washington before you reported to the Sergeant-at-Arms?—A. I got in Friday after 9 o'clock.

Q. When did you report to the Sergeant-at-Arms?—A. Monday morning. I was sick Saturday and Sunday; did not get out of the hotel.

Q. What day was it that you were at Judge Shellabarger's office?—A. That was Saturday morning.

Q. Now, will you swear that you did not say to me, in the presence of another person sitting in the same room, that you had put a value of \$10,000, during the time that you were corresponding with Mr. Lines, upon the memoranda and the letter mentioned in that correspondence?—A. I believe I said so to you, and I consider that if the memoranda was worth anything it was worth that to a party—

Q. Why did you come to Judge Shellabarger's office before you reported to the Sergeant-at-Arms?—A. I supposed from that telegram that La Abra Company caused my being summoned here.

Q. Did you not have at that time a letter in your pocket dated December 28, 1888, from the consul-general of Mexico at San Francisco, informing you that your presence was required here as a witness?—A. I did.

Q. Did not you show that letter to Mr. Kennedy in the conversation that took place at Judge Shellabarger's office?—A. In your office?

Q. Well, it was my office; put it that way.—A. Judge Shellabarger referred me to you. I supposed from the nature of the telegram that it was—

Q. The question is, did not you show to Mr. Kennedy in his office the letter now in evidence addressed by the consul-general of Mexico at San Francisco to you, dated December 28, 1888, informing you substantially that your presence would be required here as a witness in this La Abra investigation?—A. I presume I did.

Q. Now, you have testified in your redirect examination, in answer to Mr. Lines, that there was nothing in any of his letters to you that indicated a desire on his part or on the part of the Mexican Government, for which he was acting, to purchase any testimony from you. Do you say that now?—A. I don't remember what Mr. Lines's propositions were, or whether there was any. It was—

Q. I now invite your attention to an official statement of the Mexican Government printed on page 428 of Ex. Doc. 103, in which are these words which I will read to you:

Herewith are transmitted the originals of certain letters addressed by A. B. Elder the assayer for La Abra Company, to the Mexican minister and Mr. Robert B. Lines. Mr. Elder desired to find a market for the knowledge which he possessed of the affairs of La Abra Company. He was informed that if he had any documents, clearly authentic, bearing upon the case, there might be room for a negotiation, but that affidavits were not regarded as purchasable. Mr. Elder claimed to have such papers, and was asked to produce them and name his price.

Is that true or false?

Mr. LINES. One moment, Mr. Kennedy—

Mr. KENNEDY. No, I beg you not to interrupt the witness just at the moment he is answering.

Mr. LINES. I ask the chairman the privilege to interrupt the witness just a moment, not to object to the question but to make objection to the statement just preceding it as to what he had testified to before, that he had testified that there was no indication of a desire on the part of the Mexican Government or its agents to purchase any testimony. What he did testify to in my examination was that no offer had ever been made to him for testimony.

Mr. KENNEDY. Mr. Chairman, my recollection of the question of my friend Mr. Lines is this, that after asking the witness a question to which Mr. Lines has just alluded, he asked the witness whether the witness recollected anything in any of the letters that looked to a purchase of evidence, and that the witness said that he did not recollect any such thing. Now, I invite the attention of the witness to this statement, and as he has been interrupted I will read just a word or two of it again.

He was informed that if he had any documents, clearly authentic, bearing upon the case, there might be room for a negotiation, but that affidavits were not regarded as purchasable. Mr. Elder claimed to have such papers, and was asked to produce them and name his price.

Q. You were requested to produce those documents and name your price?

The CHAIRMAN. You can answer that, Mr. Elder.

The WITNESS. Well, I don't remember really whether I was asked to produce those documents or not. I can not remember.

Mr. LINES. I can tell you, Mr. Kennedy. He was, if you are willing to take it that way, without my being sworn.

Mr. KENNEDY. I have no doubt of it, because you make it as counsel here for the Mexican Government, and my objection is that you attempted yesterday or to-day to make this witness swear to a different state of facts from the facts that you stated when you said what you have said in this official statement, just as you also did on the next page in stating what if you had stated in regard to myself as a private individual I would within twenty-four hours have had you either in jail on a charge of criminal libel or out on bail, and the statement to which I now allude I will read:

Either Mr. Elder has exhausted La Abra treasury or else the persons conducting the affairs of that company have swindled him, as they did their other witnesses, by failing to carry out their contract and send him to China.

Now, Mr. Chairman, while I am on this business I want to say, knowing the meaning of my words, that one of the very greatest objections to allowing a foreign government to employ agents, especially an agent who has been in the confidence of the Department of State, to appeal to the legislative branch of the Government as against the action of the executive, or as against the action of the Senate, respecting a treaty providing for the review of an award, is that it leads to those assaults on character such as I have just read to the subcommittee.

The CHAIRMAN. This discussion is not relevant here. This matter has been taken down by the stenographer, and I shall refer to the committee, with a view of taking their opinion, anything that is of a personal character between counsel, and I can see no reason why a foreign government might not just as well be permitted to question the validity and sincerity of an award as a private citizen. The tendency is the same in either case. If you want to get a retrial or rehearing the tendency is also to try and get testimony to show that there was fraud

or mistake, at least, on re-examination. (Mr. Foster rose.) Do you wish to make any remarks, Mr. Foster?

Mr. FOSTER. Yes; I want to say one word. Mr. Kennedy's remarks imply a criticism of the conduct of one or both of the counsel engaged in this investigation. I want to ask whether he refers to me?

Mr. KENNEDY. Mr. Chairman, I do not know of my own knowledge who made this official declaration on the part of the Mexican Government.

I see from what you have said, Mr. Chairman, that you did not apprehend my point. My point is, not that there is or should be any distinction between a foreign government and a private individual in regard to trying to have an award or judgment re-opened. What I desired to say was, that when an official statement, such as read, is made in regard to the conduct of gentlemen composing a company, which if true would justify proceedings against them for subornation of perjury, that such a statement as that should not be made except on the clearest proof. Now, this witness has testified over and over again that he knows of no fact or scintilla of justification or excuse for the statement which has been made by the Mexican Government, that he ever had a contract with La Abra Company to go to China, and that La Abra Company ever "swindled him as they did their other witnesses by failing to carry out their contract" to send him to China.

I know my friend Mr. Foster too well to have any doubt that he would no more think of saying of me or of any other reputable man, except on the most decisive proof, that I had entered into a contract with a witness to send him to China so as to keep him from testifying in a case like that, and that I was such a scoundrel that I not only entered into that contract, but capped the climax of my villainy by swindling the man with whom I had contracted.

Mr. FOSTER. The gentleman's criticism was of the conduct of counsel who had formerly enjoyed the confidence of the Department of State.

Mr. KENNEDY. Oh, I would like to explain that. Mr. Chairman, in the course of my practice here I happen to know that in more than one case foreign governments seeking relief from pecuniary obligations contracted under treaties have employed gentlemen who have been accredited to these foreign governments as ministers of the United States, and I wish to say to Mr. Foster—and I am sorry I need to say it—that I never had a thought of him in my mind, but it was of William A. Pile, once minister of the United States at Caracas. He was employed by the Venezuelan Government to come here and appeal to committees of Congress and newspaper men in order to subvert the very awards which as minister he had defended at Caracas, and had tried to collect.

The CHAIRMAN. I see no objection to any gentleman appearing as counsel for any foreign government in which he has had the honor to serve his own government as to foreign lands or anything of that sort. It is no discredit to him to do anything like that. He has a perfect right to do it. But let us get on with this examination.

Q. Mr. Elder, have either of these parties, the Mexican Government or the persons concerned in the claim of La Abra Company, at any time offered you any compensation for giving your testimony as a witness?—A. Nothing more than that letter, that said that my expenses would be paid here and back.

Q. Do you mean the telegrams?—A. No, the consul general's letter; that is the only intimation that I have. I wanted they should put up some money before I started. I didn't have any money of my own.

Q. You had to borrow the money, I suppose ?—A. I had to borrow the money to come here.

Q. That is very often the case, unfortunately. Now, I understand you to swear that neither of these parties, neither La Abra Company nor the Mexican Government, have ever offered you a bribe for your testimony ?—A. Not one penny.

By Mr. KENNEDY :

Q. You mean outside of the eight letters ?

Mr. LINES. Oh, here, I object. I won't allow you to put that question, and if the chairman don't stop you I will. You mean outside of the letters I wrote to Mr. Elder. I won't permit it.

The CHAIRMAN. Well, gentlemen, there must be no interruption of the peace here.

Mr. LINES. Well, I can not listen to that.

By the CHAIRMAN :

Q. Was there any compensation for your testimony, or any bribe offered to you in the eight letters we have been speaking of ?—A. No.

Q. There was nothing of the kind in those eight letters ?—A. Never.

Mr. KENNEDY. Mr. Chairman, the witness was examined so closely in regard to those letters yesterday that I do not think it is worth while for me to examine him any further.

The CHAIRMAN. All right.

Mr. KENNEDY. But I desire to say that I think it was perfectly proper for me to ask the witness whether he intended in his answer to include or to exclude those eight letters.

The CHAIRMAN. You can ask that now, Mr. Kennedy.

By Mr. KENNEDY :

Q. In your answer to Senator Morgan's question did you intend to include the eight letters that you wrote to Mr. Lines and all the letters that you received from Mr. Lines ?—A. Yes, sir.

Q. Then I ask you how you understand this statement of the Mexican Government, the authorship of which I don't know, but it is found on page 428 of Ex. Doc. 103 ?

Mr. LINES. Now, Mr. Chairman, I am the author of it, and it is very well known to all counsel of La Abra Company.

Mr. KENNEDY. I really did not know it, Mr. Lines, until you told me.

Mr. LINES. Yes.

By Mr. KENNEDY :

Q. The witness has heard Mr. Lines say that he, Mr. Lines, is the author of the words that I am about to read :

Herewith are transmitted the originals of certain letters addressed by A. B. Elder, the assayer for La Abra Company, to the Mexican minister and Mr. Robert B. Lines. Mr. Elder desired to find a market for the knowledge which he possessed of the affairs of La Abra Company. He was informed that if he had any documents, clearly authentic, bearing upon the case there might be room for a negotiation, but that affidavits were not regarded as purchasable. Mr. Elder claimed to have such papers, and was asked to produce them and name his price.

Now, I ask you whether this statement which I have just read to you, which Mr. Lines says he wrote, is true ?—A. I never produced any papers nor—

Q. That is not my question. You have said you did not produce any papers. My question is, whether it is true that you were asked to produce your papers and name your price ?—A. I am not positive whether

I was asked any such question or not, or any such proposition was made to me. I am not sure that it ever was.

Q. Then you are not prepared to say absolutely that this statement which I have read to you is either true or false?—A. I am not prepared to say.

By Mr. LINES:

Q. When you saw Mr. Kennedy at his office, did he make any attempt to purchase any testimony from you?—A. No.

Mr. KENNEDY. Now, I object to that, although I knew what the witness would answer; but I want to say to this gentleman in your presence, Mr. Chairman, that a good lawyer would have asked the witness what Mr. Kennedy said; a good lawyer—I don't say anything about a gentleman—a good lawyer would not have put into the mouth of the witness such an insulting question as that, and if it were not for my respect for the Senator's presence, which did not seem to keep you, Mr. Lines, from what you said a moment ago, I should say what I thought of your conduct.

Mr. LINES. Very well, you shall have an opportunity to tell me after the adjournment. Your people have had a good many years.

Mr. KENNEDY. I am not responsible for my people. I should like to ask the witness one more question.

Q. At the interview that you had with Mr. Kennedy did Mr. Kennedy say to you that if those letters of yours were written by you and meant really what they seemed to mean you ought to be in jail?—A. I believe you said so.

The CHAIRMAN. What letters do you refer to, Mr. Kennedy?

Mr. KENNEDY. The eight letters, introduced in your absence, that show the relations between the Mexican Government, as represented by Mr. Lines, and this gentleman. You will read them in the record when they are printed.

[NOTE.—Mr. Kennedy desires to have it appear on the record that he did not mean to insinuate by the question to which Mr. Lines took exception on personal grounds that Mr. Lines would attempt or had attempted to bribe Mr. Elder, but simply to have the witness (Elder) say whether his answer to the chairman's question was intended to include the correspondence touching the sale and purchase of documentary evidence which he claimed to be in his possession, as distinguished from his own affidavits, which, in the extract read to the witness, were declared *not* to be purchasable. Upon Mr. Kennedy's statement that he had no intention to insinuate that Mr. Lines had been or would be guilty of bribery, Mr. Lines desires to withdraw anything he said that may have been offensive to Mr. Kennedy. Mr. Lines's purpose was to resent what appeared to him an attempt to construe the eight letters in question as an offer of a bribe by excepting them from the witness's answer to the chairman, that "not one penny" had been offered as a bribe for his testimony.]

The committee adjourned until 10 o'clock a. m. to-morrow, February 1, 1889.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 1, 1889.

The committee met pursuant to adjournment. Present: Senator Morgan, chairman; Hon. Jeremiah M. Wilson and Mr. Crammond Kennedy for La Abra Silver Mining Company, and Hon. John W. Foster and Robert B. Lines, esq., representing the Government of Mexico.

Mr. KENNEDY. Before proceeding with the testimony, Mr. Chairman, I desire to say that, yesterday, in answer to a question of Mr. Lines, I said that, so far as I knew, neither La Abra Company nor any of its officers had any letter that Mr. Lines had ever written to Mr. Elder. Last evening, Judge Wilson, of counsel for La Abra Company, handed me a package, which he had received from New York, containing letters addressed by Mr. Elder to General Bartholow, who was at one time superintendent of the mine, and also a letter purporting to have been written by Mr. Robert B. Lines to Mr. Elder.

The CHAIRMAN. You say that these letters were sent from New York to Mr. Wilson, of counsel in the case?

Mr. KENNEDY. From New York.

The CHAIRMAN. When were they sent?

Mr. KENNEDY. I received them from Judge Wilson last evening about 7 o'clock.

The CHAIRMAN. Do you know when they were sent here?

Mr. KENNEDY. I think they were sent within a day or two. The judge informed me that he had been anxious to see me, but he had to go to court before I came to the office in the morning.

The CHAIRMAN. Have you those letters here now?

Mr. KENNEDY. I have them here now, and I propose to recall Mr. Elder and offer those letters in evidence.

The CHAIRMAN. All right; I understand he is about to leave the city. I wish you would recall him immediately.

TESTIMONY OF A. B. ELDER—Recalled.

A. B. ELDER was recalled for further cross-examination, and testified as follows:

Mr. KENNEDY. I would like to show these letters to the opposite counsel, and while they are examining them, I have one or two questions that I should like to put to Mr. Elder.

The CHAIRMAN. You recall him as on cross-examination, then?

Mr. KENNEDY. Yes.

By Mr. KENNEDY:

Q. I invite your attention to your letter of January 4, 1878, as printed on page 114 of Executive Document No. 274, heretofore referred to, and ask you why you used the following words:

I do not believe that Exall was ever imprisoned while in Mexico.

A. That was because there never had been any one imprisoned while I was there, and I hadn't seen any disposition to imprison any one about the hacienda.

Q. You mean at Tayoltita?—A. Yes, sir.

Q. Now let me ask you whether you did not leave Exall at Tayoltita when you returned to San Francisco?—A. I am not positive as to that. I couldn't say.

Q. Have you any doubt that Exall remained at Tayoltita after you left?

The **CHAIRMAN**. That does not amount to anything.

Q. Have you any reason for believing that Exall did not remain at Tayoltita after you left?

The **CHAIRMAN**. If so, what was the reason?

Q. Will you state what the reason was?—**A.** I had none.

Q. I now invite your attention to the testimony of a witness examined on behalf of the Mexican Government, whose testimony is printed on page 426 of the book of printed testimony (the present volume), the name of the witness whose deposition there appears being N. A. Sloan. Mr. Sloan said :

That in answer to the question as to whether he knew that the superintendent had been imprisoned without knowing for what, he said that he knew he had been a prisoner in the jail, and that he understood that his imprisonment was because, or, rather, according to what he saw of the affair, it was because the judge went into the hacienda to speak to one of the peons who was at work there, and the superintendent thereupon put him out, from which it resulted that the said judge immediately went to his house and ordered the superintendent to be called before him, when he sent him to prison.

Now, you have said that you did not believe that Exall was ever imprisoned. Does what I have read to you affect your belief?

The **CHAIRMAN**. Mr. Kennedy, do you think that is competent evidence?

Mr. **KENNEDY**. Yes, sir; and I will tell you why. It is this: That in the so-called new evidence offered by Mexico this man's belief that Exall was never imprisoned is set forth.

Mr. **FOSTER**. What man?

Mr. **KENNEDY**. Mr. Elder's belief that Exall was never imprisoned is set forth, not only in the abstract of the so-called new evidence offered by the Mexican Government, but his letters are printed *in extenso* as part of Mexico's showing, in one of the official documents here.

The **CHAIRMAN**. I understand that. Now, it is in regard to that expression in Elder's letter that you wish to introduce this present examination?

Mr. **KENNEDY**. Yes, sir.

The **CHAIRMAN**. Suppose Elder did not believe at that time that Exall had ever been imprisoned, and suppose now, from hearing the testimony you refer to, he does believe that he was imprisoned, what difference would that make in the case?

Mr. **KENNEDY**. It makes this difference, if it please you, Mr. Chairman, that it is exceedingly unjust for the Mexican Government to offer a belief of this man in evidence without stating the fact that the person in regard to whose imprisonment this man's belief was expressed remained at Tayoltita as superintendent of the mines after this man had left.

Now, as his belief has figured in this case in the appeal of Mexico to the conscience of the United States not to pay over this money which now rests in the Department of State, I claim that I not only have a clear right, but that it would be the height of injustice to deny me the opportunity to show by this witness that there were certain facts in this case of which he was ignorant, and hence, that the belief which he expressed, and which Mexico has advanced as a reason for re-opening this award, was without foundation.

The **CHAIRMAN**. When did Mexico offer that evidence?

Mr. **KENNEDY**. Mr. Lines said yesterday that he was the author of the double-column presentation of Mexico's case, and I presume, from

what I know of the record, that it was prepared about 1880, was it not?

Mr. LINES. In 1878-'79.

The CHAIRMAN. That double-column presentation of the case is not the evidence; it is merely an argumentative arrangement by counsel.

Mr. KENNEDY. But, Mr. Senator, it is headed "new evidence."

The CHAIRMAN. I know how it is headed, but that does not make it new evidence. It is only an argument of counsel. Mr. Lines, in his argument, introduced a letter from Elder, but unless that letter is brought forward in this examination or has been brought forward in some previous examination I do not see how it becomes at all necessary or relevant to have Mr. Elder's explanation of what his opinion was or is now.

Mr. KENNEDY. Mr. Chairman, I would agree with what you have said, that if this letter had not been produced in evidence my inquiry would be irregular. Of course I would be bound to let the witness see his letter.

The CHAIRMAN. I wish you would please state to this committee now when and where that evidence was put in.

Mr. KENNEDY. It was put in yesterday.

The CHAIRMAN. That letter was put in yesterday?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. By whom?

Mr. KENNEDY. By me, on cross-examination.

The CHAIRMAN. Now, you have put a letter in, and you undertake to explain that yourself.

Mr. KENNEDY. No; I am asking the witness to explain it.

The CHAIRMAN. I understand that.

Mr. KENNEDY. But you did not say that, if you will pardon me—

The CHAIRMAN. I say again that you do undertake to explain it through the testimony of the witness, Mr. Kennedy; that is what you are trying to do.

Mr. KENNEDY. I am trying to explain his letter?

The CHAIRMAN. You put the letter in evidence, you said, on yesterday, yourself.

Mr. KENNEDY. Certainly.

The CHAIRMAN. And now you are trying to explain a remark in that letter.

Mr. KENNEDY. No, sir.

The CHAIRMAN. You are trying to explain it by saying, if you will will allow me—

Mr. KENNEDY. Pardon me.

The CHAIRMAN. You are endeavoring to explain it by saying that the witness was not sufficiently informed of the facts to give to that expression in his letter any weight. His opinion is an unimportant matter, anyhow. But now, upon you advising him differently, or presenting a new state of facts to his mind, you supposed probably he would change that opinion. That is the situation of the case now. You put in the evidence yourself. You find that expression in the letter, and you want to modify it now by calling his attention to certain other testimony in this case given by another witness, which you suppose might change his opinion as to whether Exall was in fact imprisoned. That is just the situation. I rule it out.

Mr. KENNEDY. Will you hear a few words on that point that I would like to go on the record; just a few?

The CHAIRMAN. I can not allow you to put anything on the record except proof. If you have any proof to offer about it you can do it. I

am of opinion that Mr. Elder's belief, expressed in that letter as to the imprisonment of Exall, has not the slightest effect upon this case or claim, and his statement just made shows that he had no opportunity to know, after he left the mines, whether Exall was imprisoned or not.

Mr. KENNEDY. That statement, Mr. Chairman, is satisfactory to me.

Q. (By Mr. Kennedy.) Now, I invite your attention to a letter dated December 6, 1877, at Lone Pine, Inyo County, Cal., addressed to General Bartholow, and I ask you to examine it and say whether you wrote it?—A. I wrote that letter.

Mr. Kennedy read the letter, as follows:

LONE PINE, INYO COUNTY, CAL., *December 6, 1877.*

General BARTHOLOW:

DEAR SIR: I received a letter yesterday from Robert B. Lines, attorney for the Mexican Government, requesting from me a statement as to the ores of the La Abra Silver Mining Company at Tayoltita. If you remember, I was at La Puerta, and after you left I was with Colonel De Laguel and run the mill and worked the ores. Who is the interested parties in the La Abra Company? Please answer, and oblige.

Mr. Lines seems to be anxious that I shall go to Washington. What was that tell man's—Darst or Gast. Where is Mr. Exall?

Yours, dear sir,

A. B. ELDER.

By the CHAIRMAN:

Q. To what place was that letter addressed to General Bartholow?—A. I don't know where the general was, unless he was in Saint Louis; I am not positive.

By Mr. KENNEDY:

Q. Now, I ask you to look at this letter, dated Lone Pine, Cal., January 1, 1878, addressed to General Bartholow, and say whether you wrote it.—A. That is my signature. I wrote the letter.

Mr. Kennedy read the letter in evidence, as follows:

LONE PINE, CAL., *January 1, 1878.*

General BARTHOLOW:

DEAR SIR: Yours of December 21, 1877, received yesterday. I think that I did not explain to you fully as to Mr. Robert B. Lines. In his letter he said the Mexican legation had referred to him the correspondence between me and the Mexican minister in San Francisco, and he mentions Mr. Exall's evidence and where Mr. Exall refers to me in his evidence, where Mr. E. says the ores assayed from \$250 to \$1,500 per ton. I am disposed to be favorable to the La Abra Company, and would like, if you please, tell me where Mr. Garst and C. H. Exall are—they, the Mexican minister in San Francisco, also of Washington, have, through the attorney, offered to place the amount of my expenses at my disposal. I have no desire to visit Washington on the above business.

Please give me the address of Garst or Darst and Mr. Exall.

Hoping, etc., yours, ever,

A. B. ELDER.

By the CHAIRMAN:

Q. Where was General Bartholow when that letter was addressed to him?—A. At Saint Louis, I believe.

By Mr. KENNEDY:

Q. Now I ask you to look at this letter, dated Lone Pine, Cal., March 3, 1878, addressed to General Thomas J. Bartholow, and say whether you wrote it?—A. That is my signature. I evidently wrote the letter.

Mr. Kennedy read the letter in evidence as follows:

LONE PINE, CAL., *March 3, 1878*

General THOMAS J. BARTHOLOW:

DEAR SIR: Yesterday I recd. a letter from Washington, D. C., under date of Feb. 17. They want a letter that I have from Exall, also a memorandum of assays that I have, which they got track of through Sundell. They asked me this: What will

you take for them after being sworn too? They want me to come to Washington, and have offered to pay me well. I, in answer, told them if they wanted me they must first put \$10,000 in bank in S. F. subject to my order.

They want to show by my evidence that the ores would not pay to work. I am the only man who ever assayed them, consequently no other could testify under oath as to the assay value, and the letter they want of me from Exall shows that I was assayer and amalgamator for the co. The memorandum they want shows all assays from the time I commenced crushing the El Cristo ores, which went \$11.50 pr. ton; also the La Abra and La Luz, which went from \$4 to \$12.50. There was no other assayer nearer than San Dimas. I sent them a sample to assay nearly to prove my assay, as it was so much below what Col. De Lagnel had led me to believe the ore would work. Joseph G. Rice made the assay, not knowing where the sample was from, that is, what mine. His return was \$11.50.

I send you a letter which you will please return to me. I am going to copy a portion of his letter of Feb. 17, '78, which you will see the importance of attending to at once.

Yours truly,

A. B. ELDER.

The CHAIRMAN. Is that the envelope that I see there that that letter came in?

Mr. KENNEDY. No.

By the CHAIRMAN:

Q. What was your purpose in writing that letter to General Bartholow?—A. It seems the general had written to me often; since I come to think of it—since I have seen that letter, I remember that he was questioning me about how the difference came about in the values of the ores, and he thought that the ores were much richer. He said he had had assays made that gave much larger results.

Q. He had been writing to you for your statement about that and an explanation, if I understand you, as to the difference in the assays?—A. Yes, sir.

Q. Did you state correctly in that letter to him what the assays were?—A. I stated it just as it was, to my recollection, about what the assays were.

By Mr. KENNEDY:

Q. Do you mean to say that General Bartholow wrote to you on that subject before you wrote to him?—A. I am not positive as to that.

Q. Do you not know that when you received the first letter from Mr. Lines you wrote to General Bartholow before you had ever heard from him or seen him since the time you left Tayoltita?—A. That may be, but it has been so long ago I don't remember. The thing had all passed from my memory. It is all new to me, but I remember it very well now.

Q. Yes, and I want you to be careful in your statements. Now I invite your attention to a letter dated Washington, January 17, 1878, addressed to you and purporting to be signed by Robert B. Lines, and I ask you whether that is the letter to which you referred in your letter to General Bartholow which I have just read and is the letter that you received from Mr. Lines?—A. As to Mr. Lines's letter I can not say. It has been a long time since I saw any of his letters, and his handwriting I don't recognize, and I don't remember the contents.

Mr. KENNEDY. Without putting Mr. Lines on the stand I should like to have him examine that letter.

Mr. LINES. It is my letter.

Mr. Kennedy read the letter in evidence, as follows:

WASHINGTON, January 17, 1878.

A. B. ELDER, Esq.:

DEAR SIR: Your two letters are at hand. It is too early yet to say what course our inquiry will take. The matter is still in the hands of a Congressional committee,

but will soon be in definite shape. Meanwhile we shall be at liberty to negotiate for any documents you may have.

Among the most useful would be memoranda of assays, letters with regard to the failure of the company's funds, etc. Did you have any correspondence with anybody on that subject or any tending to show the poverty of the mines which could now be produced?

What is the date of Exall's letter of recommendation to you and its purport? Did he regret that the company had no more work or anything of that kind?

You will understand, on reflection, the extreme delicacy of our position, attacking, as we are, a case made up of affidavits secured by bribery and purchase. But you may rest assured that there is no disposition to take advantage of your voluntary offers or to use your information which is of unquestionable value, to your prejudice.

Exall is in New York. I have not his address, but my agents are in communication with him, and he shows, as I am informed, a disposition to purge himself of the false swearing into which he was undoubtedly led by older rascals. I can get a letter to him, if you are willing to send it through me without dating it. Granger is coming down with original papers which are arriving from Mexico. Bartholow, of course, knew before he left that the thing would be a failure, and he is as deep in the mire of perjury as any of them.

I should prefer to talk the whole matter over with you personally. Will you let me know what papers you have, if any, and on what terms you can come here for an interview.

Very truly, yours,

ROBT. B. LINES.

This letter please return to A. B. Elder.

Q. (Referring to indorsement on foregoing letter.) Is that your writing?—A. Yes, sir.

Mr. KENNEDY. The witness says that the indorsement on the letter of Mr. Lines just read, in these words, "This letter please return to A. B. Elder," is his (Elder's) handwriting.

Mr. LINES. In this sentence, "You may rest assured that there is no disposition to take advantage of your voluntary offers or to use your information which is of unquestionable value, to your prejudice," I want it noted there is no pause after the word "information;" the point being that the following clause, "which is of unquestionable value," qualifies the word "information," and was not meant as an assertion of my own that the information was of value. The intention was to use any information of unquestionable value. That is the point I wanted to make.

By the CHAIRMAN:

Q. Is that memorandum on the back of the letter, or at the bottom of it, in pencil?—A. No, sir; it is in ink.

Q. To whom was that memorandum addressed; whose eye was that for?

The WITNESS. What is your question?

Q. The memorandum indorsed by you seems to be intended for the eye of some person. Whose?

Mr. KENNEDY. The letter inclosing Mr. Lines's letter is addressed to General Bartholow.

The CHAIRMAN. Oh, yes. So that that was intended as a request to General Bartholow to return Lines's letter to you?

A. Yes, sir.

By Mr. KENNEDY:

Q. Now I invite your attention to a letter marked "copy," dated Washington, D. C., February 17, 1878; and I ask you to look at it on both sides, and say whether, exclusive of the marks in pencil, it is the copy of Mr. Lines's letter referred to in your letter to General Bartholow, in which you say that you inclose a copy of a portion of a letter received from Mr. Lines.

The CHAIRMAN. Before he answers that I wish to ask him a question.

Mr. KENNEDY. Will you let him answer the question first?

The CHAIRMAN. No; I say before doing that.

Mr. KENNEDY. I did not hear that.

By the CHAIRMAN:

Q. What your attention is called to purports to be a copy of letter written by whom?—A. I don't know; did you say it was written by Mr. Robert B. Lines?

Mr. KENNEDY. It was in your letter to General Bartholow that you say to the general that you inclose a copy of a portion of a letter received by you from Robert B. Lines, and my question was whether, on examining this paper which I now show you, you say that that paper is the copy referred to by you in your letter to General Bartholow.

Q. Have you the original of the letter of which that purports to be a copy of a part?—A. I can't say, Senator. These are the letters that I have supposed were destroyed; that is all the letters I had from Mr. Lines.

Q. Have you the original letter with you now?—A. No, sir; I have not. I haven't seen it for ten years, probably.

Mr. KENNEDY. I examined him, Mr. Chairman, when you were not present, day before yesterday, and he testified that all these letters were destroyed, including a memorandum of assays made by him. (To the witness.) Now, answer my question, please.

Mr. FOSTER. Put the question again.

The question was read by the stenographer as follows:

Now, I invite your attention to a letter marked "Copy," dated Washington, D. C., February 17, 1878, and I ask you to look at it on both sides, and say whether, exclusive of the marks in pencil, it is the copy of Mr. Lines' letter referred to in your letter to General Bartholow, in which you say that you inclosed a copy of a portion of a letter received from Mr. Lines.

Mr. LINES. I object to that. The ground of my objection is that the witness has not yet testified that it is a copy of any letter he received from me. I have no objection, however, to that question being asked at present, and then it may be that——

The CHAIRMAN. Look over it.

The WITNESS. I wrote it.

By the CHAIRMAN:

Q. Is that a copy of any letter you got from Mr. Lines?—A. I have said that it is, and to the best of my knowledge it is.

The CHAIRMAN. Now proceed.

Mr. Kennedy read the following letter in evidence:

[Copy of a letter from R. B. Lines to A. B. Elder, copied by A. B. Elder.]

Verbatim.]

WASHINGTON, D. C., February 17, 1878.

Your evidence backed by these memoranda in view of your position ought certainly to be conclusive. Sundell said in Sept. the ores were all there. The lobby in behalf of the Co. finding itself unable to suppress investigation is now trying delay it with more success. Just when it will commence is still uncertain. Let me know what you will furnish the memoranda sworn to by you and Exall letter for.

Exall is in N. Y. and I think in a few days we shall have his papers. My agents are in communication with him in N. Y., and he is weakening very rapidly. I shall be glad to forward to him anything you may offer. I do not know his address, as everything is done through my agents.

There is much in the letter not in this.

[In pencil:]

Yours,

R. B. LINES.

A. B. ELDER.

I have an offer to go to China. Silver mines there. Do you want any stock in the Co.? The prospects are good. Maybe so; dividends.

Mr. LINES. Do you propose to incorporate that sentence, "There is much in the letter not in this," as part of my letter? Does that appear to be part of a letter from me to Elder?

Mr. KENNEDY. No; but I am reading it exactly as it is here, and I will state to the stenographer that evidently the extract from Mr. Lines's alleged letter ends with the word "agents."

Q. (By the CHAIRMAN.) If I understand you now, Mr. Elder, in writing to General Bartholow you inclosed what you have there copied as an extract from a letter of Mr. Lines to you. Is that right?—A. Yes, sir; this part here where it speaks about going to China was not a part of Mr. Lines's letter.

Q. Was that put in the same envelope with the letter that was read a moment ago?—A. I presume it was.

Mr. KENNEDY. The offer to go to China is on the same sheet of paper.

The CHAIRMAN. I understand that. But just before that a letter was read from Elder to Bartholow. Now, I want to know whether that letter you read a while ago from Elder to Bartholow was inclosed in the same envelope with this?

The WITNESS. I couldn't say.

By Mr. KENNEDY:

Q. Now I invite your attention to a letter press copy of a letter dated Saint Louis, March 24, 1878, addressed to A. B. Elder, esq., Lone Pine, Cal., and purporting to be signed by Thomas A. Bartholow, and I ask you to examine it and say whether it is a copy of an original letter that you received from Mr. Bartholow.

The CHAIRMAN. Mr. Kennedy, is that in reply to one of these letters you have in evidence?

Mr. KENNEDY. Yes, sir.

A. In looking over this letter I see that its tone is the same as one I had from General Bartholow; and, taking into consideration the date, etc., I presume it is a copy of General Bartholow's letter to me.

Mr. Kennedy read the letter in evidence, as follows:

SAINT LOUIS, March 24, 1878.

A. B. ELDER, Esq.,
Lone Pine, California:

DEAR SIR: I beg to acknowledge receipt of your favor of 3d instant with inclosures, and in reply beg to say I do not know Mr. Sundell, nor do I know anything relative to the assays made by you, but I do know that I sent to San Francisco several specimens of ore from La Luz which assayed from \$1,000 to \$1,800 per ton; that Col. D. Lagniel assayed ore from El Christo which produced \$2,200 to the ton; that I took home with me several specimens of La Luz ore when I left in 1866 which I had assayed, and the assay was \$6,400 in silver and \$600 in gold per ton; but this has nothing to do with your proposition to Lines, that you will go to Washington provided he places first \$10,000 to your credit in a bank in San Francisco.

Being friendly to you and as you have asked my advice, I simply have to say that you know as well as I do the Mexican officials as a rule are very lavish in promises but rarely if ever show a disposition after the matter is disposed of to fulfill their engagements; therefore, as I said to you in a previous letter, I now repeat that you had better have the cash in hand before you comply with their requests.

I note your remark that you have an offer to go to China to work in silver mines there and ask if I want any stock in the enterprise; in reply I beg to say I might be induced to go into such an enterprise, as I earnestly desire to visit China; please give me in detail the history of this company and their mines, with such verified or official documents as you may have or can obtain bearing upon the matter.

Your friend,

TH. J. BARTHLOW.

By the CHAIRMAN:

Q. I see he says in this letter:

Therefore, as I said to you in a previous letter, I now repeat, that you had better have the cash in hand before you comply with their requests.

S. Doc. 231. pt 2—42

Have you that previous letter that is referred to there by General Bartholow?—A. I don't think I have; I haven't seen it for ten or twelve years.

Q. Was that previous letter one that he wrote in reply to one you had written to him?—A. It seems to me now that there were a number of letters; I think it was; yes; in reply to one I had written, something about those assays.

Q. You do not know where that letter is that you wrote to him?—A. No, sir; I don't.

Q. You have never seen it since you wrote it?—A. No.

Q. It was never returned to you?—A. No; not that I know of.

Mr. KENNEDY. I think the witness does not understand you, Mr. Chairman. The letter that the witness wrote to General Bartholow is in your hand.

The CHAIRMAN. The previous letter?

Mr. KENNEDY. Yes, sir. This witness began writing to General Bartholow when the witness first received a letter from Mr. Lines, and I have just been reading the witness's letter to General Bartholow.

The CHAIRMAN. Which of these letters from Elder to Bartholow do you say, or believe, or represent as being the "previous letter" referred to in this letter dated 24th of March, 1878?

Mr. KENNEDY. An examination of the letters has made me pretty sure that when General Bartholow got the first letter from Mr. Elder, which has been read in this examination, the general answered it, and that is the "previous letter" to which the general referred after the correspondence, as the letters show, had progressed nearly three months.

Mr. LINES. Can we not get some testimony on that subject instead of statements?

The CHAIRMAN. General Bartholow kept a press copy of the letter you have just read to the witness?

Mr. KENNEDY. Evidently so.

The CHAIRMAN. Was there any press copy of his reply?

The WITNESS. I do not know anything about that.

Mr. FOSTER. It appears to be an incomplete copy of the correspondence.

The CHAIRMAN. My point is just this: Why do you bring here a press copy of one answer of General Bartholow without bringing the press copy of the answer to the previous one?

Mr. KENNEDY. As far as I can answer the question, all I have to say is that I received this package from Judge Wilson last evening, and the judge can tell when he received it, and from whom.

The CHAIRMAN. All right.

Mr. WILSON. I got it yesterday afternoon by mail; found it in my office when I went there last evening before going home to dinner.

The CHAIRMAN. From where?

Mr. WILSON. From New York.

The CHAIRMAN. From whom?

Mr. WILSON. Mr. Ely, the secretary of the company; and not having been able to be here for several sessions of the committee, I handed it over to Mr. Kennedy.

The CHAIRMAN. That is all I wanted to know. Proceed.

By Mr. KENNEDY:

Q. I invite your attention to letter dated Lone Pine, Cal., April 9, 1878, and addressed to General Bartholow, and I ask you to examine it and say whether you wrote it.—A. I wrote it.

Mr. Kennedy read the letter in evidence as follows:

LONE PINE, CAL., April 5th, 1878.

Gen. BARTHOLOW:

DEAR SIR: Yours of the 24th ult., come duly to hand and contents noted. I sent to you a few days since a postoral card asking the return of Mr. Lines' letter. If you have not already started it you need not be in a hurry about doing so. In a letter from Washington a few days since they through an agent have offered \$1,500 *less than I asked them; they want my deposition* and the letter and memoranda, and I think I will accept, as I have been looseing in the sheep business for the last year.

As for the Co. for China, it is not perfected yet. I will let you know more of it soon.

Hoping, yours truly,

A. B. ELDER.

Q. Were the words in the foregoing letter, "they want my deposition," underscored by you?—A. I don't know; I don't think they were.

Mr. KENNEDY. That is all, Mr. Chairman.

The CHAIRMAN. Do you wish to ask him any further questions?

Mr. KENNEDY. No, sir.

The CHAIRMAN. That closes your cross-examination of this witness, does it?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. Gentlemen, proceed with your redirect, if you have any questions.

Mr. LINES. Only on the points brought out in those letters.

The CHAIRMAN. Of course you will confine it to that.

By Mr. LINES:

Q. Do you swear that the paper which has been read here, and which was transmitted by you to General Bartholow, is a copy of the letter I wrote to you?

Mr. KENNEDY. Of a portion of a letter.

Mr. LINES. Very well; of a portion of a letter I wrote; do you swear that that is a true and correct copy? I want you to state that upon your oath.—A. I believe I swore that that portion of it was a copy of the letter; that that writing there was my handwrite.

Mr. LINES. I have no doubt of that.

The WITNESS. As to its being an exact copy, I can not say; it is merely marked as a copy.

Q. You are not ready, then, to say that it is a copy of a portion of a letter which you received from me?—A. I only marked it as a copy and said it was, and I presume that it was a portion of a letter received from you.

By the CHAIRMAN:

Q. Did you intend when you wrote it to make it a correct copy?—A. I intended to make it a copy.

Q. You may have made some mistake?—A. I may have made some mistake.

Q. You do not remember now whether you did or not; you could not say?—A. No, sir.

By Mr. LINES:

Q. Let me ask you—although I believe you testified on the subject yesterday—who did you mean in this letter of April 9, 1878, offered you \$1,500 less than you asked?

Mr. KENNEDY. Mr. Senator, the words of the witness ought to be read to him. He says it was through an agent, and if Mr. Lines desires to examine the witness as to any particular portion of his letter he ought to read it.

By the CHAIRMAN:

Q. Who was the agent that you referred to in that letter?—A. I couldn't say, this thing has been so long ago.

Q. Do you mean you can not remember?—A. I can not remember who it was.

By Mr. LINES:

Q. Can you remember whether there was any such offer in any of my letters to you?—A. I can't remember whether there was or not.

Q. Did you not testify yesterday that there never was any offer to you from me of any sum whatever for any testimony?—A. I think I did, and to the best of my knowledge you never made me any offer; I am not positive as to that.

By the CHAIRMAN:

Q. Were you trying to get out of La Abra Company or out of the Mexican government the best compensation you could for the information that you had in your possession and that you thought you alone possessed?—A. When they wrote to me to come here I supposed that I was entitled to something more than the ordinary traveling fees and expenses for coming here and for the information that I had.

Q. Did you think that both parties were trying to get your information, or that one was trying to get it and the other to suppress it?—A. I didn't know that the Mexican Government wanted my evidence; they never said anything to me about it, either about suppressing or giving it.

Q. Then you informed Mr. Bartholow that the Mexican Government was trying to get your evidence?—A. Yes, sir.

Q. Trying to get documents in your possession, memoranda of assays?—A. Yes, sir.

Q. And a letter of Exall?—A. Yes, sir.

Q. And you were informing him (Bartholow) of what offers had been made to you, in order to obtain that information?—A. There was between General Bartholow and I more correspondence, some of which was to the effect that he considered the claim just. But it has been so long ago I really can't remember much that transpired; in fact, the whole thing had passed from my memory. I had almost forgotten the name of Tayoltita, but since I have been toiling over it so much here, of course, it has become quite familiar again.

Q. When Mexico was trying to get this information from you why did you inform Bartholow of that fact?—A. It came around, not directly, but through correspondence that there was between him and I, that such was the case.

Q. Did you not have an expectation that if Mexico should offer you a round sum for information in your possession, La Abra Company would find some advantage in offering you as large or a bigger sum for not giving it?—A. I don't know that I expected it, for I never expected more than—I expected rather what would be considered as expert pay if I came here with evidence, memoranda, letters, etc., which showed that I was always at work at good wages.

Q. Was it any part of your purpose to manufacture a false statement of facts in order to have yourself employed as a witness?—A. No, sir.

Q. Or did your communications relate to certain memoranda of assay, and to a letter of Elder's that you had?—A. That is all it amounted to the fact that I had a memorandum of assays from the day that I commenced and so on until the final close.

Q. What have you done with that memorandum ?—**A.** I haven't seen it for ten or twelve years.

Q. Where did you last see it ?—**A.** It was in Lone Pine, Inyo County, Cal.

Q. Was it then in your possession ?—**A.** It was then in my possession.

Q. It never went out of your possession or that of your son ?—**A.** No.

Q. You do not know where it is ?—**A.** I do not know where it is.

Mr. KENNEDY. I ought to say, Mr. Chairman, that the witness was cross-examined exhaustively on that subject, and that his testimony is to the effect that two weeks before he came here he got a letter from his son, telling him, the witness, that the papers had been destroyed.

Mr. FOSTER. In reply to a letter that the witness had written to his son asking about the papers.

Mr. KENNEDY. You can make your statement when I have made mine. This witness got a letter from his son stating that those papers, including the memorandum of which you inquire and the Exall letter, had been destroyed by the son.

Mr. FOSTER. Have you concluded ?

Mr. KENNEDY. Yes.

Mr. FOSTER. The statement just made by Mr. Kennedy will be more complete when I add that the witness stated that when he was summoned to appear here he wrote to his son asking him to send him any papers relating to La Abra Company.

Mr. KENNEDY. The record will show that.

The CHAIRMAN. I had not heard that part of the examination.

Mr. FOSTER. As you had not heard it, I thought it desirable that the statement should be made complete.

The CHAIRMAN. Proceed with the examination of the witness.

Mr. KENNEDY. The counsel has made a statement of facts different from mine.

Mr. FOSTER. Simply by way of amplification.

Mr. KENNEDY. The fact is that the record shows that on a certain day in December—

The CHAIRMAN. It is not worth while to continue the discussion.

Mr. KENNEDY. I am anxious about this. The record shows that at a date considerably before the two weeks the witness had a letter from the consul-general of Mexico, dated at San Francisco, in which the consul-general informed the witness that his testimony would be required in the interest of justice at Washington.

The CHAIRMAN. That is the same letter you read yesterday ?

Mr. FOSTER. That was introduced yesterday.

Mr. KENNEDY. And in that letter—

The CHAIRMAN. I do not want to have this case argued on any record we are trying to make in the testimony. It is certainly my duty to confine this record, as far as I possibly can, to the facts that will bear upon the investigation, and not the remarks of counsel interjected, as they are being done, so frequently. Now, Mr. Lines, go on with your examination.

By **Mr. LINES:**

Q. What did you mean by this expression in the paper purporting to be a copy of my letter to you, of February 17, 1878 :

There is much in the letter not in this.

Do you remember what you referred to ?—A. No, I don't ; I don't remember.

The CHAIRMAN. That is obvious. It was to show that all the letter is not copied there.

Mr. LINES. I wanted to know what it was that was not copied.

The WITNESS. I have no recollection.

Mr. LINES. I kept no copies of my letters to this witness.

Mr. KENNEDY. Mr. Chairman, would you object to have that go on the record, that Mr. Lines says he has kept no copies of his letters to Mr. Elder?

The CHAIRMAN. I have no objection to its going on the record.

By Mr. WILSON:

Q. I understand, Mr. Elder, that communications had passed between you and somebody representing the Mexican Government, looking to the procurement of your testimony, and that certain offers had been made to you if your testimony would be given. Am I right about that?—A. Nothing more than has been stated here in evidence.

Q. Then, upon the receipt of these communications you put yourself in communication with Mr. Bartholow, did you?—A. I don't remember as to that.

Q. You wrote to him on the subject, and gave him the information that is in these letters that have been read; that is so, is it?—A. Yes, sir; that is so.

Q. It is likewise true that after you had come here you at once communicated with the attorneys of the company; that is to say, you went to see the attorneys of the company?—A. I have said two or three times that the dispatches called me in the case of La Abra Company against Mexico.

Q. Exactly; but you went to see the attorneys of the company?—A. I went to see Mr. Shellabarger, and he referred me to Mr. Kennedy.

Q. What I want to get at is this: Suppose that the Mexican Government had offered you \$10,000 for the testimony that you possessed, whether it was in your own knowledge or in the form of papers; and suppose when you called upon Mr. Bartholow he had offered you \$15,000 if you would not furnish such testimony; then what would you have done? Would you have taken the Mexican offer or the Bartholow offer?—A. That matter never was under consideration with me.

Q. What would you have done?

Mr. FOSTER. Is not this going a little too far?

The CHAIRMAN. I think that will do.

Mr. WILSON. I think that is not going too far. But I submit if the chairman thinks it is.

The CHAIRMAN. I think it is.

Mr. WILSON. Probably it is mere matter of argument.

The CHAIRMAN. Is that all you want to ask him about?

Mr. WILSON. That is all.

Mr. KENNEDY. I want to ask him one question in rebuttal of a question that you put to him, Mr. Chairman.

The CHAIRMAN. Go ahead.

By Mr. KENNEDY:

Q. Would you have stated in your letter to Mr. Bartholow that the paper you inclosed was a copy of a portion of a letter you had received from Mr. Lines if you had known at the time that it was not a copy?—A. I think not.

Mr. KENNEDY. That is all.

The CHAIRMAN. Now you are discharged. Gentlemen, call your next witness.

Mr. FOSTER. If the Senator will allow me, I want to say that what has just occurred emphasizes the importance of our having an answer from the counsel from the company in regard to the production of papers, documents, and other things in their possession, or within their control, relating to the affairs of La Abra Company. Here we have had produced an incomplete copy of correspondence, showing that correspondence is in existence which has never yet been produced.

Mr. KENNEDY. Here is an answer to the call [producing paper and handing it to the chairman].

TESTIMONY OF CHARLES B. DAHLGREN.

CHARLES B. DAHLGREN, sworn and examined :

The CHAIRMAN. You offer this witness, do you ?

Mr. FOSTER. We do.

Mr. KENNEDY. Before he is examined I wish to ask Mr. Foster if he will produce the original letter that Captain Dahlgren addressed to Mr. Robert B. Lines ?

Mr. FOSTER. At the proper time.

Mr. KENNEDY. At the proper time; that is all I want. I wanted to give you notice.

By **Mr. FOSTER** :

Q. Please state your full name, your residence, and present occupation.—**A.** Charles B. Dahlgren; forty-nine years old last October; present residence, Battle Mountain, Nev.; occupation, miner.

Q. Have you resided in the Republic of Mexico ? If so, at what place, and for what period of time ?—**A.** I resided five years and two months in San Dimas, in the State of Durango, 12 miles from Tayoltita.

Q. In what were you engaged during that time ?—**A.** I was superintendent of the Durango Mining Company, under a contract for five years with them.

By the **CHAIRMAN** :

Q. Do you speak the Spanish language ?—**A.** I do.

By **Mr. FOSTER** :

Q. State whether you were ever requested to give your deposition in behalf of the claimant, La Abra Company, against the Republic of Mexico, to be used before the Claims Commission organized for the settlement of claims between the two nations.—**A.** I was asked to state what I knew about the matter, but I do not know for what purpose it was to have been used. That is, I knew that there was some trouble between the company and the Republic of Mexico, but General Adams did not state that it was to be used before a commission. I supposed it was to be presented in the case.

Q. By whom were you asked ?—**A.** By General A. W. Adams.

Q. I hand you a letter dated San Francisco, November 12, 1877, signed C. B. Dahlgren, and ask you to examine it and state by whom it was written and signed ?—**A.** I wrote that letter, and it is my signature. It is addressed to Mr. Robert Lines, and I wrote it "Lyons," not knowing otherwise.

Mr. FOSTER. I will state that this is the same letter which appears on page 113 of House Executive Document No. 247, Forty-ninth Congress, first session, and I will read it.

Mr. WILSON. I will compare it as you read it.

Mr. Foster read in evidence the letter as follows:

SAN FRANCISCO, CAL'A, Nov. 12, 1877.

Mr. ROBERT LYONS,

U. S. Senate P. O., Washington:

SIR: I have good reasons for knowing that the testimony under my signature, as offered by A. W. Adams, in the La Abra case or claim, has been perverted, and is therefore fraudulent, and should be treated as such.

My testimony was taken in rough notes and left for him to copy or fill in over my signature on a clean sheet, as I was called off on important business.

I know now that said testimony has been perverted and by said A. W. Adams.

Very truly,

C. B. DAHLGREN.

My address here is: Capt. C. B. Dahlgren, Pacific Refining and Bullion Exchange, cor. Brannan 7th, S. F.

P. S. I understand said A. W. Adams boasted he had obtained my signature by the use of a "good round sum of gold." Advise me how I can bring him before a court to substantiate said statement.

C. B. D.

I refer to Gen. Sherman and Rev. B'y'n Sunderland.

Mr. LINES. There is an indorsement made on the back of it that was made at the time.

The CHAIRMAN. Is that important?

Mr. LINES. It may be. It shows what was the disposition made of the letter, and I should like to have it put in.

The CHAIRMAN. That is not a matter connected with the merits, as I understand. There is no dispute about this letter being genuine.

Mr. WILSON. The witness says it is his.

The CHAIRMAN. Mr. Lines' indorsement could have no effect upon the substance of the letter, so I would rather have that deferred until we get through with the examination about the contents of the letter.

Mr. LINES. It would show what was done by myself as a representative of Mexico.

The CHAIRMAN. Proceed, please, gentlemen.

Q. (By Mr. FOSTER.) State the circumstances under which you wrote that letter.—A. A. A. Green met me in San Francisco —

Mr. KENNEDY. One moment. I would like to inquire, Mr. Chairman, whether this witness can, in explanation of the circumstances under which he wrote this letter, say what A. A. Green or anybody else said to him?

The CHAIRMAN. I suppose the witness is going to state the reasons why he wrote Mr. Lines.

Mr. LINES. There is no objection to that.

The WITNESS. That is the reason. I presumed you wanted to know why I wrote.

Mr. KENNEDY. I would like, Mr. Chairman, for you to instruct the witness that while it is proper for him to say that after seeing A. A. Green or anybody else he did something; it is not proper for him to say what Green or anybody else said to him.

The WITNESS. I was informed that I had testified in the Abra case, and that my testimony had been purchased for a "good round sum of gold."

By the CHAIRMAN:

Q. Who was your informant?—A. A. A. Green.

Q. Where does he live?—A. He is living a great deal in the Republic of Mexico.

Q. Was he your acquaintance ?—A. He was an acquaintance of mine ; yes, sir.

Q. A man whose opinion you respected ?—A. I knew nothing against him. He had been the original owner of the Candelaria mine, of which I had been the superintendent, and, therefore, I had been brought into business contact with him.

Q. In consequence of that information what did you do ?—A. He then told me what my testimony had been, and asked me if that was the case. I was very angry, and I then put myself into communication with Mr. Lines and wrote that letter to him.

By Mr. FOSTER :

Q. State the circumstances attending the request of General A. W. Adams for your deposition, as you have already mentioned.

The WITNESS. Do you mean from the time I first met him ?

Mr. FOSTER. Well, you may state where you first met General Adams.—A. I was in charge of this company and had a large hacienda —

Q. That is the Durango Mining Company ?—A. The Durango Mining Company, and had been milling ores.

Q. At what place ?—A. At San Dimas.

Q. In the State of what ?—A. Durango. One day General Adams rode into the hacienda. His approach was announced by one of my couriers, who said that the general had a large cavalcade. I went out to meet him, and was introduced to him by a Mr. Key, or Col. Clarence Key, who introduced me to General A. W. Adams, of the U. S. Army.

By the CHAIRMAN :

Q. By the way, do you know where Clarence Key is now ?—A. No, sir. I asked him to dismount and come into the hacienda. Without inquiring into his business, I asked him if he was going to remain in the Republic for a while ; he said he was.

Mr. KENNEDY. Mr. Senator, do you think it is competent for this witness to tell what General Adams said to him, General Adams being dead, and having been substantially one of the defendants in this proceeding by Mexico to have the funds withheld ?

The CHAIRMAN. I do not understand that General Adams stands in any such attitude as a defendant in this case ; certainly not in such an attitude as to make his declarations incompetent, but rather the contrary. Nor would the fact of his being dead have any effect upon the competency of this testimony. And in addition to that, what the witness is testifying to is utterly immaterial, and is a mere prelude to what I suppose he is going to state in regard to matters that affect the merits of this controversy. Proceed.

Mr. FOSTER. General Adams was also the representative at that time, as the evidence shows, of La Abra Company ; that has already been shown in the evidence.

The CHAIRMAN. I know that.

By Mr. FOSTER :

Q. Do you remember the names of anybody else who accompanied General Adams, besides Colonel Key ?—A. I was going to continue as I had started in my testimony. I will recall some of the names as I go along.

The CHAIRMAN. I would very much prefer that you let the witness go right along and make his own statement, and if you object to any part of it we will consider it afterwards and strike it out if necessary.

Mr. KENNEDY. Of course I will do whatever the chairman desires.

Mr. FOSTER (to the witness). Proceed in your own way, then.

The WITNESS. He said he was going to remain in the Republic for some time. I asked him to accept the hospitalities of my hacienda while he was in that part of the country. He said he had a large cavalcade. I said "How many?" There may have been twenty or thirty in the company. I said that I could accommodate them all and as many more. I then had my right-hand man, my book-keeper, James Granger, assign quarters to him and his people.

By the CHAIRMAN:

Q. Let me ask you there: Is this James Granger the same man who had before that or after that been in Tayoltita?—A. The same one.

Q. Was that before or after he left Tayoltita?—A. It was after. He was my book-keeper for five years.

Q. After he left Tayoltita?—A. After he left Tayoltita.

The CHAIRMAN. Proceed, now.

The WITNESS. He then asked me if I had any objection to his taking testimony in my hacienda, calling some people in for that purpose. I replied "None." He then called a number of witnesses and examined them.

By Mr. FOSTER.

Q. Before whom?—A. Before his clerk, one Peña. Among other witnesses was James Granger. He completed those examinations and went to Durango, and for that purpose I think I furnished him a guide, Matias Avalos.

Q. Can you fix approximately the date of that visit?—A. It was before the rainy season, which sets in on June 24; it was just before that.

The CHAIRMAN. I suppose the deposition itself would show that.

Mr. FOSTER. It would if it was to be relied upon.

Mr. WILSON. Which it can be, as you will see after a while.

By Mr. FOSTER:

Q. When did you next meet Adams?

(The witness referred to a memorandum book.)

Mr. KENNEDY. Before the witness refers to his diary it would be proper to ask him if the entries were made at the time of the transactions referred to therein.

The CHAIRMAN. He has not said anything yet about a diary.

Mr. KENNEDY. He is looking at it in his hand.

A. It was Wednesday, September 18, 1872.

Q. At what place?—A. At his place of residence in Mazatlan, or the house he stopped at in Mazatlan.

Q. Do you know where Adams had been in the meantime?—A. No, sir.

Q. When he left your hacienda where was his destination, as he stated?—A. He went to Durango.

By the CHAIRMAN:

Q. The city?—A. Yes, sir; the capital of the State.

By Mr. FOSTER:

Q. When you met Adams, did he make any request of you?—A. I went down to the port of Mazatlan to take my wife and child to send them to San Francisco, and there I met General Adams again.

Q. At the time just stated?—A. Yes, sir; in September.

Q. The 18th of September?—A. The 18th of September. He asked

me if I would testify in the case. I told him that I did not know much about it, but what I did know about it I would state.

Q. What took place then?—A. We went up to the consulate—

Q. The United States consulate?—A. The United States consulate; and there he interviewed me or examined me.

By the CHAIRMAN:

Q. Were you sworn?

Mr. WILSON. Have him state the name of the United States consul.

The WITNESS. It was Isaac Sisson.

Q. Were you sworn?—A. I do not recollect, sir. I do not recollect whether there was any formality in swearing me or not.

By Mr. FOSTER:

Q. What then occurred?—A. He examined me.

Q. He? Who?—A. He asked me a number of questions.

Q. Who?—A. A. W. Adams.

Q. You have just spoken of the consulate and that is the reason I asked.—A. The consul asked no questions and took no part in it at all.

Q. General Adams began to examine you by asking—A. A number of questions.

Q. Who wrote down the answers?—A. His secretary, Peña.

Q. What did those questions relate to?—A. As to what occurred at Tayoltita, what I knew about what had occurred at Tayoltita on the property of La Abra Mining Company.

Q. Did you have any difference or controversy with General Adams as to the character of the answers you were giving, or as to the recording of your answers?

Mr. KENNEDY. The original deposition of this witness—

Mr. FOSTER. I will bring that out in a few minutes. I thought I would lay the foundation for it by having a history of the occurrences, which will be important to all parties, I think.

Mr. KENNEDY. All right.

The WITNESS. Mr. Peña recorded the questions and my answers.

By Mr. LINES:

Q. In what language?—A. In English. My deposition filled up a number of sheets.

By the CHAIRMAN:

Q. About how many?—A. Oh, quite a number; there may have been a dozen or two dozen sheets, a large number of sheets. He said, "I have finished." I then said, "General Adams, allow me to read over those papers." He said, "They are your answers as written down by my secretary, and it is long; it is not necessary; have you no confidence in me?" I said, "I wish to see those papers, and unless I do they can not go out of this room; I must see them." He then handed me the sheets, and I read them over. I then said, "General Adams, those are not the answers as I gave them to you, sir, and I will not allow that to pass for evidence." "Well," he said, "Scratch it out, or erase it, as you see fit." That was done, and then I said, "Now those answers are satisfactory to me and I will sign them," and I did sign them. He then said, "That is not fit to hand in as testimony, all scarred up in that manner." I said, "You had no business to write those answers in that way." And I said, "Well, I am on the way to San Dimas, and I haven't time to stay longer." I then called to Mr. Sisson, who was consul at Mazatlan, while I was United States consul at Durango—

By Mr. FOSTER:

Q. At that time?—A. At that time; yes, sir. I said to Sisson, "I will sign a blank sheet of paper and put it in your possession as consul, as between two consuls; you are to transcribe these notes and retain the original and hand that signature with the transcribed sheets ahead of it to General Adams as my testimony." Sisson said he would do it. I then jumped on my mule and rode away, 170 miles back to San Dimas.

Q. During the time you were being questioned by General Adams and your answers were being taken down, was Mr. Sisson present, and did he hear the testimony?—A. If he did, he merely walked into the room and out again; but he was not there to listen to it, either half of it, or a third of it, or a quarter of it, and probably paid very little attention to what went on.

Q. Then he did not pretend to conduct the examination?—A. No, sir.

Q. Or be present during it?—A. No, sir; he was not present, that is, to any appreciable extent; he merely came in a few times, took a book or paper, or attended to some other consular business, and went out; but he did not attend to that examination—did not give it any personal attention.

Mr. FOSTER. Mr. Chairman, I hold in my hand the testimony submitted on the part of La Abra Company to the mixed commission, which has been printed by order of this committee. On page 401 appears what purports to be the deposition of Charles B. Dahlgren on behalf of the claimant, to be submitted in evidence before the joint commission of the United States and Mexico in session at Washington, D. C. I propose to read questions and answers and ask the witness how far—

The WITNESS. There is one other thing that I would like to state about this examination.

Mr. FOSTER. Let me finish my statement first. I propose to read the questions and answers and to ask the witness how far this deposition conforms to the answers given by him at Mazatlan at the time stated.

The CHAIRMAN. Now, captain, you may make your statement.

The WITNESS. After I was through with the examination, General Adams said: "Captain, how much am I indebted to you for this examination; is there anything to pay?" I looked at him for a moment, and I said, "No, sir; not one cent; I did not come down here to testify as a paid witness. I have given you my knowledge of what took place there, and there is nothing to pay for it, sir." And I left.

By the CHAIRMAN:

Q. Where is the original of your deposition? Is it on file in the State Department?

Mr. FOSTER. The original of this deposition as printed is on file in the State Department.

The CHAIRMAN. The original deposition that he signed?

Mr. FOSTER. That is, the deposition of which this is a printed copy is on file in the State Department, but it is evidently—

Mr. KENNEDY. There is no question about it being on file, but the curious thing is that it is not here.

Mr. LINES. I thought you wanted it.

Mr. KENNEDY. You have taken your own course, and we have not said anything.

Mr. FOSTER. I understand that this has been accepted and is to be treated by the committee as the testimony submitted by the claimant in this case. That was the object of having it printed, and I supposed it was by the agreement of counsel, and that the understanding was that it was to be so accepted.

Mr. WILSON. We are not objecting to your examination. We want you to understand that; but we notify you now that the examination will not be confined to that.

Mr. FOSTER. Of course you will conduct your examination as you see proper. I supposed you were objecting to the pertinency of this as evidence in the case.

Mr. WILSON. No; I am simply conceding that you may use that for the purpose of any examination you may desire to make of this witness.

The CHAIRMAN. Upon the assumption, of course, that it is a literal copy of the paper on file in the State Department.

Mr. FOSTER. And that it has been submitted to the committee and printed as the evidence submitted by the claimant before the commission.

Mr. WILSON. Oh, no; let it be understood now that Mr. Foster can go right along and examine this witness as much as he pleases, using that as the text for his examination. What we may do hereafter is another matter.

The CHAIRMAN. If any question is to be made as to whether, after all, and after the witness has gotten through his testimony, he has been examined upon a deposition that was actually taken and used before the commission, it will be my duty to suspend the examination and to make a request to the State Department to send up the original paper. I deem that to be my duty if any question of that kind is to be raised. I had assumed that it is a correct copy.

Mr. KENNEDY. We do not raise the question whether it is a correct copy of the paper on file.

By the CHAIRMAN:

Q. Did you ever see that paper after Sisson copied it?—A. No, sir.

Q. You do not know whether it is in his handwriting or not?

The WITNESS. Which paper?

The CHAIRMAN. The deposition on file in the Department. Have you seen that paper at all?—A. I have.

Q. You have looked at it?—A. Yes, sir.

Q. Is that in Sisson's handwriting?—A. I think not. I have had quite a correspondence with Sisson, and I think it is in the handwriting of Peña.

Mr. FOSTER. The certificate shows that.

Q. (By the CHAIRMAN.) Is Peña a Mexican or an American?—A. He is a half-breed.

Q. Is he an educated person?—A. Yes, sir; he has lived in San Francisco a number of years, and speaks Spanish and English equally well.

Q. You have examined the papers since you have been here?—A. Yes, sir.

Q. Did you write anything in it except the signature at the bottom?—A. Nothing.

Q. And that signature was made before the body of the deposition was written out?—A. Yes, sir. The paper that I would like to see is the one which I erased and added to and corrected. That is the paper I want to see.

Q. You have not seen that?—A. No, sir; and that is the paper I want to see.

Q. You do not know where that is?—A. No, sir.

By Mr. FOSTER:

Q. I now read from this document which I have already cited:

REPUBLIC OF MEXICO, CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Mazatlan, State of Sinaloa, ss:

At 2 o'clock this 18th day of September, 1872, before me, Isaac Sisson, consul of the United States, in and for the port of Mazatlan and the dependencies thereof, personally appeared Charles B. Dahlgren.

Q. I want to ask you if you can fix the hour of the day on the 18th of September when your deposition was taken?—A. It occupied considerable time.

By the CHAIRMAN:

Q. Beginning at what hour?—A. It commenced early in the morning.

Q. Eight or nine o'clock?—A. Oh, before that, sir; because in Mexico they get up very early and attend to business, and then the siesta begins at 12 o'clock and lasts until 3, during which time there is very little business done. In Mexico everybody is awake early in the morning, and all the important business is done in the morning. I went down with my mozo to the ocean and took my morning bath, and then met General Adams. So it was early in the morning when we commenced. It lasted a long while.

By Mr. FOSTER:

Q. Can you fix the number of hours?—A. No, sir; but I remember it got to be very tedious.

Q. Can you fix it by any other circumstance as to how far you traveled that day, for instance, after your testimony had been concluded?—A. After we got through with the testimony I traveled 62 miles.

Q. The same day?—A. The same day; yes, sir.

Q. Was it before 2 o'clock when your deposition was finished?—A. I couldn't say, sir, whether it was 1, or 2, or 3.

Q. I will now proceed with the reading of this deposition:

Well known to me as the person he represents himself to be, and a credible witness, who, after having been duly sworn by me, according to law, to state the truth in answer to interrogatories propounded by me, touching the merits of the above-entitled cause, deposes and says.

Have you any clearer recollection than you have already stated as to whether you were sworn by the consul, or do you remember whether you were sworn by the consul or not?—A. I don't recollect as to that.

Q. Were the interrogatories propounded by the consul?—A. No, sir; they were not. They were propounded by General A. W. Adams, all of the questions; none were proposed by the consul.

Q. I continue the reading:

Question 1st. What is your name, age, birth-place, citizenship, residence, and occupation?

Ans. My name is Charles B. Dahlgren; I am 32 years of age; I was born in Harttsville, in the State of Pennsylvania, in the United States of America, and I am a citizen of the same.

Q. Is that substantially your answer?—A. Yes, sir.

Q. Then it continues:

I reside in San Dimas, in the mineral district of the same name, State of Durango, Mexico. My occupation is that of assayer, machinist, mining engineer, and general

superintendent of the Durango Mining Company, whose hacienda and works are at San Dimas.

Question 2d. Are you or not a son of the late Admiral Dahlgren, of the United States Navy, and are you consul of the United States for the State of Durango, Mexico, lawfully appointed and confirmed, and as such recognized by the United States and Mexican authorities?

Ans. Yes; the late Rear-Admiral John A. Dahlgren was my father, and I hold the position suggested in the question, and I am so recognized by said authorities.

A. Now, in reply to that will you allow me to state what I recollect on that point?

Mr. FOSTER. Yes.

The WITNESS. (Reading:)

"The late Rear-Admiral John A. Dahlgren was my father."

I never said that. To the question, "Are you or not a son of the late Admiral Dahlgren, of the United States Navy?" my reply was, "I am."

Q. I continue the reading:

Question 3d. Do you know, and have you visited and examined the mines, haciendas, and the late works and improvements of "La Abra Silver Mining Company," claimant in this case?

Ans. Yes; I know them, and have visited and examined them.

Is that, according to your best recollection, the answer you gave?

A. I never examined La Abra Silver Mining Company, although I have been over the works.

Q. Did you testify on that examination that you knew them and had visited and examined them? Did you testify in answer to General Adams's question whether you had visited and examined the mines? In other words, is the answer correctly reported?—A. No, sir.

Q. State wherein it is imperfect.—A. In answer to the question, "Do you know and have you visited and examined the mines, haciendas, and the late works and improvements of La Abra Silver Mining Company," I said I had examined the hacienda, because I took portions of that machinery, but "the late works and improvements of La Abra Silver Mining Company" I never examined. I passed over one or two of the mines, but I never examined them.

Q. I continue reading question 4:

Question 4th. Where are said mines and property situated; and of what did said improvements of claimant consist, and in what condition are they now?

Ans. The principal mines of "La Abra Silver Mining Company" are in "La Abra" Mountain, near Tayoltita, in said district of San Dimas. Their names are "El Rosario," "El Cristo," "La Abra," "La Talpa," "El Arrayan," "El Sauce," and some others in that district, whose names I have forgotten.

Q. Is that a correct answer to the question as you gave it?—A. No, sir; because I didn't know what mines they possessed.

Q. Did you ever know, by name, the mines whose names are here given? Did you ever know whether or not they belonged to La Abra Company?—A. No, sir; I knew that La Abra mine belonged to the company. I had been at El Arrayan, but I didn't know the names of the rest of the mines belonging to the company.

Q. And you did not attempt to give the names in that examination?—A. No, sir; nor their condition.

Q. (Reading:)

The condition of those mines were good when the Abra Company abandoned them; but since that time some of them have fallen in, and filled up with debris, and it would require large expenditures of money to re-open them, and to put them in as good condition as they were when the "Abra Mining Company" abandoned them.

Did you make any such declaration as that?—A. No, sir; because I knew nothing about it.

Q. Did you know anything whatever of the mines that La Abra Company abandoned?—A. No, sir; I did not; only about the mill.

Q. (Reading:)

The improvements of that company consisted of a ten-stamp mill of the first class, a suitable mill-house for the same, two haciendas—the “St. Nicolas” and the “Guadalupe”—a large number of out-houses for the residences of the company’s employees and their families, constituting, in appearance, a small village.

Did you testify upon that examination anything about the improvements of the company?—A. I testified that they had a mill. I stated what the machinery consisted of, and that they had a large building for the residence of the superintendent and the American employ  es, and a large patio covered with ore.

Q. Did you mention the names of the two haciendas?—A. No, sir.

Q. Did you know the names?—A. I did not.

Q. (Reading:)

Together with supplies of every kind needed for carrying on silver and gold mining, and for beneficiating the same on a very large scale, all being situated near Tayoltita, in the said district of San Dimas.

A. I knew nothing about any supplies that they had or what they had on hand, except that they had expended a sum of money, which had been wasted or thrown away, as I had heard.

Q. And you gave no testimony at that time in relation to the supplies they had on hand?—A. I told General Adams that I knew nothing about what supplies they had had on hand except the common hearsay of the district.

Q. (Reading:)

The stamp-mill and machinery have been torn to pieces, and parts of them sold and leased out for use in other places, and by other parties than their owners.

A. I said that I had taken away a number of pieces of machinery and moved them over to San Dimas.

Q. (Reading:)

Question 5. Who claims ownership of the said mines, haciendas, machinery, stamp-mill, and other improvements of said “Abra Company;” or, if you know, state who, if any person, assumes or exercises the right to dispose of the said property of claimant, either by absolute sale, or by leasing out the same for use in other places than Tayoltita, and without authority to do so from claimant in this case? Will you please state all you know in relation to any such sales or lease of the mining tools, machinery, or the stamp-mill of said company, or any part of the same, giving names, dates, and circumstances so far as you can recollect them?

Answer. Yes; the local authorities of San Dimas claim that the Mexican Government owns that property, and they have sold and leased some parts of it.

Did you make any such declaration as that to General Adams in answer to his question?—A. My reply to General Adams at that time was that when it came to the mill, the taking away of the machinery, etc., I did know about it, because it was I who took away the principal part of it.

Q. What I have read is:

The local authorities of San Dimas claim that the Mexican Government owns that property, and they have sold and leased some parts of it.

What did you testify?—A. I referred him to my correspondence with Judge Cipriano Quiroz de la O.

Q. We will come to that in answer to another question.—A. That was my reply. I referred him to my correspondence with that judge.

Q. Did you know at that time, or do you know now, that the local authorities of San Dimas claim that the Mexican Government owned that property?—A. I know that there has been some trouble between

the company and the authorities ; I supposed that they were the local authorities ; and when I asked permission of the judge to take away such of the things as I wished, he sent me down a letter which here is correct.

By Mr. KENNEDY :

Q. On what page ?—A. That is on page 112.

Mr. LINES. In the testimony of some witness for Mexico.

Mr. FOSTER. Page 112 of the other book that has the letters in.

The WITNESS. Shall I read it ?

Mr. FOSTER. No, because we will come to that in answer to another question.

The WITNESS. I referred him to that correspondence.

The CHAIRMAN. Shall I have the letters you first introduced this morning placed on file ?

Mr. KENNEDY. That has not been done ; but they will be kept subject to the inspection of counsel or the committee at any time.

The CHAIRMAN. In case other members of the committee might wish to see them.

By Mr. FOSTER :

Q. I continue to read :

I know, too, that a Mexican citizen, whose name is Francisco Torres, and who is now, and has been for the the past year and more, the occupant of said haciendas and mining property and machinery of said company, claims ownership of the same ; and that he works the mines of claimant successfully, by "Patio" process, a part of them under a "denouncement" made of the "Rosario" mine in the name of one Granger, an Englishman ; and although the denouncement is said to legally cover only one of the principal mines of said company, "El Rosario," which is probably the richest and most valuable of them all, he, nevertheless, works some of the other mines of said company in "Bonanza," and claims to own them all, as he told me when I was there, but a few months ago.

Please state whether that answer is correctly given as you testified at Mazatlan ?

The WITNESS. That is in reply to question 5.

Mr. FOSTER. Yes ; so far as I have read. Did you testify to anything as to the denouncement of the Rosario mine by Granger ?

A. I believe I did. A mine in Mexico, when it is not worked, is subject to denouncement, and I knew that people had denounced it ; but I don't think that they ever did much of it, and if they did it was only with loss to themselves.

Q. Did you testify that the Rosario was probably the richest and most valuable of all the mines ?—A. No, sir ; I never did.

Q. Did you know anything about the value of the Rosario mine ?—A. Only from tradition, that a great deal of ore had been taken out of it.

Q. But as to its then present condition, I mean at that time ?—A. I knew nothing about it, sir.

Q. Did you state that he "nevertheless works some of the other mines of said company in bonanza ?"—A. No, sir ; I didn't testify that any mines were ever worked in bonanza when I was there.

Q. You made no such statement to General Adams ?—A. No, sir.

By the CHAIRMAN :

Q. What is meant by the phrase working a mine in bonanza ?—A. The consolidated Virginia mines on the Comstock were worked in bonanza by Flood and O'Brien.

Q. What is the signification of the phrase ?—A. It means that they are paying, paying handsomely.

S. Doc. 231, pt 2—43

By Mr. FOSTER:

Q. In large quantities?—A. Yes, sir.

Q. Why did you mention the Flood and O'Brien mines being worked in bonanza as an illustration?—A. Because they were yielding very rich results. They had rich ores in abundance.

Q. I proceed to read:

I know that parts of the stamp-mill and machinery of "La Abra" Company have been taken away from the company's works at Tayoltita, and that the same are now in use, and have been for two or three years past, by other mines and mining companies in distant places, some of them as far as three days' ride from Tayoltita. I know that a Mr. Hapgood, of Buena Vista, has a part of the claimant's mining tools and machinery.

Q. Did you make any such statement as that in regard to Mr. Hapgood?—A. I might have made it, for this reason, that everybody who wanted any pieces of machinery went there and helped themselves. There was nobody to prevent them.

Q. I continue to read:

Mr. Hapgood has in use at his works in Buena Vista a "jack-screw," a large pair of scales, and many other things taken from said claimant at Tayoltita, and sold to him, as he told me, at a mere nominal value, by unauthorized persons. I visited Buena Vista in June last, where I saw and recognized those articles in use, and was told by Mr. Hapgood that he had been using them for his mining operations there for the past two years or more, and that they came from claimant's hacienda at Tayoltita. Buena Vista is about two days' ride, and for packing machinery it is three to four days' travel from Buena Vista to Tayoltita.

Is that substantially your statement given at that mine?

The WITNESS. Where is that?

Mr. FOSTER. That is on page 402.

The WITNESS. No, sir; and I did not recognize any of the articles. Mr. Hapgood told me that he had bought of different parties, and Granger also told me that he had sold a number of things belonging to the hacienda.

Q. Did Mr. Hapgood tell you from whom he bought them?—A. No, sir; but Granger told me that he had sold different pieces of machinery to different people, and that he had to do it to support himself.

Q. I continue the reading:

I know that the "retort" belonging to that stamp-mill, and without which the whole mill is completely crippled for use, was taken from the "La Abra Company's works at Tayoltita, and it is now in use by a Mexican citizen named Juan Cuevas, who works the same in the mineral district of Huahuapa, at a place called "Huahuapa," about three days by pack mules from Tayoltita.

A. No, sir; I took the retorts myself.

Q. Did you make any such statement to General Adams?—A. No, sir; I did not. I knew there was a small district called Huahuapa; but I took the two retorts out of that hacienda myself and packed them over to San Dimas, and put them up and used them.

By the CHAIRMAN:

Q. I understand you to state that you did not make the statement as there recorded in that statement that General Foster is reading from?—A. No, sir; I did not.

By Mr. FOSTER:

Q. (Reading:)

Said Cuevas has many other valuable parts of said machinery, or the iron taken from the same, together with large numbers of claimant's mining tools, which I saw there myself, and recognized as the property of claimant, adjusted to other machinery belonging to said Cuevas and in use. This was in or about the month of December, 1871.

Does that agree with your statement as made?—A. That was toward the end of 1871; yes, sir.

Q. (Reading:)

I spoke to said Cuevas about the matter, as I had to Mr. Hapgood, and he said it was the property of claimant.

A. That is false.

Q. You made no such statement?—A. That is false.

Q. State more explicitly its false character.—A. It says here that I spoke to said Cuevas about the matter. I did not know Cuevas.

Q. You had no conversation with him?—A. None. It also reads here:

And he also told me he had bought it of some one at a mere nominal price, and considered himself, he said, very fortunate, in getting hold of such machinery so cheap.

By the CHAIRMAN:

Q. You deny having said that?—A. That is false. I never was in Huahuapa; so I couldn't say it.

By Mr. FOSTER:

Q. Did you state to General Adams, in answer to his question, that you recognized any of the property belonging to La Abra Company in Cuevas's possession?—A. No, sir.

Q. (Reading:)

I know of a number of thousand dollars' worth of said machinery and tools taken from the stamp-mill and hacienda of claimant and now in use in San Dimas, and in a number of mineral districts adjoining the San Dimas district, and the same scattered over a territory of a hundred and fifty miles square, more or less, a part of which has been in use three years or more, and probably much of said machinery and tools worn out or nearly so.

How far does that conform to your answers as given to General Adams?—A. That does not conform to my answers. The common report was that this machinery had been taken by whoever wished it; it was there as abandoned, and I went over with my head machinist and head carpenter and four or five of my best men, and we looked over the hacienda, and we helped ourselves to such things as we wished; and in correspondence with the judge I said that I was responsible for them and I would pay whoever came forward and demanded payment; and I signed my name to that offer to pay whoever came forward; I didn't care whether it was the Mexican Government or the company or any individuals.

Q. I continue to read:

I also know of other parts of said machinery belonging to "La Abra Silver Mining Company," at Tayoltita, having been sold to the company of which I am superintendent and for which we are now held responsible for its appraised value by the judge of first instance in the district of San Dimas, with the privilege of using it all until called for, at an appraised value for the use of the same. After making some inquiries in reference to the real ownership I heard, by common report in the district, that no individual had a right to sell and dispose of said property of claimant, but that its ownership was really with the Mexican Government; that a suit was pending before the Joint Commission of the two Governments, for reclamation, at Washington, and that the acts of the local authorities in compelling claimant to abandon its mining enterprise, it was claimed, had given the real ownership of said property to the Mexican Government. Last spring or summer I found out the mistake made in buying some parts of the machinery of claimant from the wrong parties; I received a note from Judge Cipriano Quiros, the highest judicial authority in the district of San Dimas, last summer or spring, asking me to call upon him at his court-room in San Dimas, and settle the matter referred to with him. I called as requested, and the said judge then told me that only Mexican authorities could exercise any control over the said mines, stamp-mill, machinery, and other property abandoned by "La Abra

Silver Mining Company," at Tayoltita, and instructed me that the said purchase made of the tools and machinery named, and then in use by my company, was all right, if I would settle the matter with him, as representative of the Government of Mexico, for the value of said property; and as I was superintendent of the Durango Company, he said he was district judge—representing the Government of Mexico in this matter, could dispose of said property to me, by lease, or by sale, as he had, he said, received recent instructions on that point from the authorities of the Supreme Government. Finally, our interview ended by the sale or lease of said property, for use by my company—the Durango Silver Mining Company—and he, Judge Quiros, made out to me, and he signed a written authority for me to take down and use for the benefit of my said company, all of the machinery left there, including the stamp-mill of claimant at Tayoltita, and to put it in use at San Dimas, making me responsible to him or to the Mexican Government for the appraised value of the same, or for its return to Mexican authorities by paying the use of it, to be appraised also. I cannot remember the exact language of the lease or sale; but this is the substance of it. He explained, at the same time, that in case said "Abra Company" should get a judgment against Mexico, as it seemed likely they would do before said Joint Commission at Washington, that said mines, hacienda, machinery, and stamp-mill then becomes the property of Mexico, and that it was, he said, his business, as district judge, to look out only for the interests of Mexico, and to secure, as nearly as possible, the value of said machinery and stamp-mill for the Government. He executed the lease, or paper obligation, authorizing me to take from Tayoltita such parts of said mining property as my company desired, or all that was left of said stamp-mill and machinery, if I wished it all, and to remove the same to San Dimas for use by the Durango Company; and he authorized me also to keep and make use of the parts of said machinery and tools which I had bought of irresponsible or unauthorized parties, holding me responsible to him—Judge Quiros—or Mexico, for the appraised value of that also, or for the value or its use as I might elect. I have a part of said machinery, so leased to me, in use now at San Dimas, and I intend to remove the balance of said stamp-mill, and all that remains of the machinery and mining tools of said "Abra Company" to San Dimas, or to such other place in that district as may be most profitable to my company, in order to work said mill and machinery under the lease, or written obligation referred to by and between said district judge and myself, to have the privilege of paying to Mexico the appraised value, and owning the same, or of paying Mexico for the use of said stamp-mill, tools, and machinery, and of turning over to the Mexican Government the same again when said suit shall be decided by the Commission at Washington. I do not remember now the exact language of said sale or lease, for I have not seen it since the day it was taken, but I have stated its substance correctly.

Now, I will ask you to state how far what I have just read conforms with the statement by you to General Adams at Mazatlan.—A. My answer was in my letter to the judge, and the judge's reply to me, and I also said that I would be responsible to whoever should turn up as owners.

By the CHAIRMAN:

Q. Have you those letters?—A. No; I have not.

Q. Did you furnish them on that occasion to General Adams, or copies of them?—A. He had them with him, or copies of them.

Q. The answer you gave was what you had embodied in those letters?—A. Yes, sir; they are the letters and the answers.

Q. Then do I understand you to say that the statement made here is not correct?—A. It is made out of whole cloth.

By Mr. FOSTER:

Q. That is, it is altogether incorrect?—A. Yes, sir; it is made out of whole cloth.

Q. Did you ever state to Adams that the ownership of this property left by La Abra Company was really with the Mexican Government?—A. No, sir; because I didn't know with whom it was left.

Q. Did you ever state to him that a suit was pending before the joint commission of the two Governments for reclamation at Washington, and that the acts of the local authorities in compelling claimant to abandon its mining enterprise, it was claimed, had given the real ownership of said property to the Mexican Government? Did you ever make any

such statement as that to Adams?—A. No, sir; I never did. I did not know anything about it. I knew that there was a controversy, and I had heard it bandied about by both sides. But I did not know who were the partisans, and therefore I did not know, and I did not care. I wanted that machinery to start my enterprise, and took it and gave documents for it.

Q. Did Judge Quiroz ever make any claim to you of ownership of that property or the control of it by the Mexican authorities as the owner of it?—A. No, sir; he did not. He claimed the right of protecting the property against being pillaged.

Q. I now read from House Executive Document No. 274, Forty-ninth Congress, first session, page 112. I propose to read your application to the judge and his answer:

CHARLES B. DAHLGREN, resident of this mining district and general administrator of the American company entitled Durango Mining Company of New York, appears before you, making faithful and legal manifestation that being in need for his machinery used in the reduction of ores, of an iron wheel belonging to the machinery of La Abra Mining Company of Tayoltita, and which has been abandoned, he is going to dispose of said wheel, as also of its attachments. On making known to you what he intends to do, it is with the object that note of it be taken by the court in your worthy charge, so as to make it public, and that the value thereof be charged to him, to which effect he makes the necessary protestations to pay what he will be made responsible for either by a cash payment or by the return of said wheel.

He requests your honor to be pleased to keep this petition in your court for his responsibility at all times, and publish it, should you think necessary to do it.

CHARLES B. DAHLGREN,

Administrator of the Durango Mining Company of New York.

SAN DIMAS, *May twenty-third, eighteen hundred and seventy-two.*

Court of the first instance of San Dimas.

May twenty-third, eighteen hundred and seventy-two.

The above petition having been presented, the undersigned judge, taking into consideration that La Abra Company referred to has filed a claim against the Mexican Republic, this court does not authorize the petitioner, Mr. Charles B. Dahlgren, to dispose of the wheel above mentioned, and if he does it it will be under his own responsibility, to which end let this order be published and posted in prominent places of this district. This order is to be made known to Mr. Dahlgren for his information. The undersigned judge so decreed, ordered, and signed before the witnesses.

CIPRIANO QUIROZ DE LA O.

Witnesses:

E. PADILLA.

NICANOR PEREZ.

On the same date the citizen Charles B. Dahlgren was notified of the above order, and said that he heard it. He signed it in the presence of the witnesses.

CHARLES B. DAHLGREN.

CIPRIANO QUIROZ DE LA O.

Witnesses:

E. PADILLA.

M. CORDOVA.

How does this correspondence which I have just read conform to your recollection of what occurred at that time?—A. That is correct; that is the correspondence which ensued.

Mr. KENNEDY. Can you not read on, Mr. Foster, so as to make the record complete and show that testimony was taken and that an order was made? You will find it there.

Mr. FOSTER. Yes; I will if you desire. I continue the reading:

On the thirty-first of May, eighteen hundred and seventy-seven, by judicial order of this date a legalized copy was taken of this document, as also of the testimony relating thereto.

In witness whereof:

FELIPE SALCEDO.

Witnesses:

E. PADILLA.

LORENZO RODRIGUEZ.

Q. I continue to read question 6 from the deposition already cited :

Question 6th. Did said Judge Quiros receive from you any money, or other thing of value, for executing said bill of sale, or paper obligation, authorizing you to take down and make use of said company's stamp-mill, tools, and machinery?

Ans. Yes ; I sent him a present of twenty dollars in money, and I also sent him a week's rations for himself and his employés, which he received.

State whether that conforms to the answer you gave to General Adams at Mazatlan ?—A. No, sir ; I never said that ; I never had any business transactions with Judge Quiros ; I never paid him any money ; and I never sent him any rations for himself or employés ; never in the five years that I was there.

Q. Was any such question as that asked you by General Adams at Mazatlan ? Did he ask you that or any similar question ?—A. I don't know ; I don't recollect ; I don't think he did, because he was very tender-footed in approaching me on the money question.

By Mr. WILSON :

Q. Who was very tender-footed ?—A. General A. W. Adams. I had seen some of his transactions there, and I did not sanction them, and he held aloof about asking about any of my transactions at all.

By the CHAIRMAN :

Q. Do you refer to transactions in connection with this business ?—A. Yes, sir ; in regard to this business.

By Mr. FOSTER :

Q. I continue the reading :

Question 7th. Will you now please present to the consul the written obligation, referred to as having been executed by Judge Quiros, selling or leasing for use said property of claimant, in order that a certified copy may be taken by the consul, and filed with this deposition at Washington ?

Ans. It is not possible for me to present that paper called for by the question, because I did not bring it with me, as I would have done if I had known that it would have been required ; or had I anticipated this examination, of which I had no knowledge or intimation until I was notified to appear here for examination. I left that paper with the other papers of the Durango Mining Company, of which I am superintendent, all in charge of Dr. Stoeck, in my absence, and it would be impossible for me to produce the paper, as it is in the mountains, about two hundred miles from this place, and it would require, probably, a month to produce it here, if indeed it could be done at all, as the rebels have taken Mazatlan, and the entire road to the district of San Dimas, since I came down here and from the present political excitement and uncertainty, I can not say when I may find it convenient or safe to return, as my feelings and views are known to be in favor of the Government, or constituted authorities.

Please state how far that answer, as read, conforms to any statement you made on that subject at Mazatlan.—A. That name Dr. Stoeck should be spelled Storch. I do not recollect as to the rest of the answer except the last part of it. It says :

I can not say when I may find it convenient or safe to return, as my feelings and views are known to be in favor of the Government, or constituted authorities.

I returned that same day. That story is absolutely manufactured, for I returned that same day.

By Mr. WILSON :

Q. Returned where ?—A. Up into the mountains of San Dimas from Mazatlan.

By Mr. FOSTER :

Q. Do you remember of his saying anything in regard to a paper of that character ?—A. Yes, sir ; I do.

Q. I will finish the answer :

I was fifteen days coming from San Dimas to Mazatlan, including delays and hindrances occasioned by political disturbances.

How far does that conform to your recollection of what you said ?—
A. (Referring to memorandum book.) I started on Monday, August 19, 1872, and I reached Mazatlan on Tuesday, September 3, 1872. That was on the 15th day I got in.

Q. I continue the reading :

Question 8th. Did the attorney of "La Abra" Company, or other person, request you to come to Mazatlan and give this deposition, or was the giving of your testimony in this case suggested to your mind, or thought of by you, before you arrived in Mazatlan?

Ans. This question is answered by my reply to one of the foregoing questions. I think I have said that I knew nothing of the purpose of the attorney for "La Abra Company" to have me examined, until notified in writing by the consul to appear and be examined in the case; nor had I the remotest idea of it. I came here with my sick wife and family, to get them on board the steamer for New York, and also to purchase supplies for the Durango Company.

A. That is correct except that Adams himself asked me if I would testify.

By Mr. LINES :

Q. You got no notice in writing from the consul ?—**A.** I don't recollect of any.

Q. You do not recollect getting a subpoena ?—**A.** No; but in general effect that is correct. When I came down to Mazatlan I did not know that I was going to remain. I did not know that Adams was there, and it was not until I met him and he asked me if I would testify that I consented to remain for that purpose.

By Mr. FOSTER :

Q. You have no recollection of receiving any written notice or subpoena from the consul ?—**A.** No, sir; I was in the consul's office every day, and in conversation it may have turned up, but I don't recollect of any formal papers being served upon me.

Q. I continue the reading :

Question 9th. What is the character of the mines owned and worked by said "Abra Company," at Tayoltita, which you have named, so far as regards their richness of metal, and supply of the same.

Ans. It is good. They are undoubtedly among the best and most valuable of all the silver mines of Mexico, and some of them are not unknown to fame for their rich and abundant productions. I refer more particularly to "La Abra," "El Rosario," "La Talpa," and "El Cristo" veins. I should like to own them, and if it were possible to raise capital to work them, and to secure proper protection from the local authorities, which I think improbable, if not impossible, in Tayoltita, to secure any protection.

Please state how far the answer which I have read conforms to the statement made by you to General Adams at Mazatlan.—**A.** I can only say in reply to that that that is false in every particular. I could have owned them if I had wanted to, and I had the means to work them. I had all the protection that I wanted from the local authorities; and, as a proof of it, I worked those mines for five years, and they are being worked now, and that Durango Mining Company has been worked twenty-seven years, and they are now turning out \$115,000 a month. I worked the Candalaria and the Bolanos in San Dimas. Some people repeatedly asked me to go over there and take hold of those mines, but I always declined.

Q. Why did you decline ?—**A.** Because I sent over my right-hand

man to look over the district, and if there was anything good to secure it.

Q. What report did he give you?

Mr. KENNEDY. I do not think that that is admissible at all.

The CHAIRMAN. No.

Mr. KENNEDY. That is pure hearsay.

The WITNESS. My rule always is to send out my right hand man to look at a property first; and then if he reports favorably on it I go myself and look at it, and if it is good I take it.

Q. Did you ever go and examine the Tayoltita mines upon that report?—A. No, sir.

Q. Did you state to General Adams at that time that the mines now worked by La Abra Company are among the best and most valuable of all the silver mines of Mexico?—A. No, sir.

Q. Or anything of that purport?—A. No, sir. When we consider Zacatecas and Candelaria that would be the height of folly for me to make such a statement, for my book on Mexico, which is a recognized authority on the mines of Mexico, will bear me out in what I say, because all those notes were made at the time I was in Mexico.

Q. I continue the reading at question 10:

Question 10th. Did you, when at Tayoltita, observe the piles of silver ores on the patios of the company, so as to be able to state the quantity and value of the same? If so, state it.

Ans. I think not; I did, however, more than once, observe said ores. The company left great piles of them on the "patios," which they had taken out and packed down from their said mines, and the average of them were said to be very rich of silver metal, with a small percentage of gold; but I also observed there unmistakable evidences of that which had been a common report for a long time, that those piles of ore had been torn down and the richest of their metals culled out and carried away, leaving upon those extensive "patios" the poorest of them, which were scattered over a large surface, covering, I should say, at least a quarter of an acre of ground. It was said that the company abandoned about a thousand tons of those metals, but not half of them remained when I saw them in 1870; and those that were left gave evidences of having been torn down, culled out, and rejected. I can not state the value of those that I saw, but I think from a cursory examination of them that even the poorest and rejected pieces would pay well to beneficiate.

How far does this answer conform to the statement made by you to General Adams at Mazatlan?—A. I told him that I had observed the piles of ore on the patio, spread over the whole patio. I also told him that I sent my assayer over there to sample it, and he did so, and brought the sample back to the hacienda.

By Mr. KENNEDY:

Q. What date was that that you sent him over?—A. When I was tearing down this machinery in December, 1871, I sampled them myself.

By Mr. FOSTER:

Q. About December, 1871?—A. About December, 1871.

Q. Go on with your statement.—A. That was a frequent occurrence, because we were some time in tearing it down, and I was over there frequently, and being a mining man, I would naturally go over and take samples from the piles of ore, which I did, and sampled them thoroughly and if they had been any account I would have worked them up.

Q. Did you make any statement to him at that time to the effect that the average of that ore was said to be very rich in silver metal, with a small percentage of gold?—A. No, sir.

Q. Did you make a statement to the effect that there were "unmistakable evidences of that which had been a common report for a

long time, that those piles of ores had been torn down and the richest of their metals culled out and carried away?"—A. No, sir.

Q. You were stating that your man made selections from those ores on the patio?—A. Yes, sir.

Q. State the result of your assay.—A. My assay was \$8 in silver and \$5.50 gold, making \$13.50 per ton.

Q. Would you call that very rich in silver and gold?—A. It wouldn't pay for working.

Q. Did you say anything to him about the common report that the ores had been torn down and the richest carried away?—A. No, I don't recollect that I did; but you can depend upon one thing, that Mexicans would never leave any rich ores lying around, nor American miners either, any more than the Treasury Department here would leave silver dollars lying around.

Q. Did you say:

I can not state the value of those that I saw, but I think from a cursory examination of them, that even the poorest and rejected pieces would pay well to beneficiate.

Did you make any such statement as that?—A. No, sir; I did not.

Q. What was the fact in regard to that, from your observation in 1871?—A. That our test was too low a grade to touch.

Q: You mean to work?—A. Yes, sir; to handle. When I say handle, that means taking them off the place and working them.

Q. State whether the ores that you saw in 1871 at the patio were of any value for practical purposes.—A. No, sir; \$13.50 would hardly pay the the freight over to San Dimas.

By the CHAIRMAN:

Q. You mean in Mexico?—A. Yes, sir.

Q. Would it pay in this country?—A. In this country we are working 70 tons a day that don't work over \$15 to the ton. But to take that over to San Dimas, over 12 miles, that ore would hardly pay freight.

By Mr. LINES:

Q. What would have been the cost of reducing it at the patio there, provided the machinery was all in operation and without carrying it over to San Dimas?

The WITNESS. Leaving out the mining part?

Mr. LINES. Leaving out the mining.

A. I don't know what the expense would be.

By Mr. FOSTER:

Q. What would it have cost to reduce the ores on the patio there at Tayoltita?—A. They had rather poor chance there, on account of the likelihood of it being carried away by flood. But even under favorable circumstances, with the loss in quicksilver and one thing and another, I don't see that they could have reduced it for less than \$8 a ton; and that would not include the shipping of the bullion to Mazatlan, nor include the mining or the packing down to the hacienda.

By Mr. LINES:

Q. Would there not have been, including all those expenses, an absolute loss on each ton of ore mined and reduced?—A. I worked a low grade of ore in Candalaria for a year for a test; I worked from 900 to 1,000 tons of ore, and I gave it a good test, bringing everything down to a business basis, and I lost a couple of thousand dollars a year on \$18 and \$19 rock. Then I abandoned it and went to other parts of the mine.

By Mr. FOSTER:

Q. I continue the reading:

Question 11th. What, in your judgment, was the value of the mines, machinery, stamp-mill and other improvements belonging to and worked by "La Abra" Company, which you have named; state your opinion of their value in March, 1868, and at the present time, and also the amount of money which that company must have expended in said works, in your opinion?

Ans. I should value those mines at not less than one million dollars, in 1868, and the company's improvements at half a million more.

Did you make any such statement as that, as far as I have read?—A. That I should value those mines at \$1,000,000 in 1868? I was not there in 1868. I knew nothing about that in 1868, and I never made any such statement as that.

Q. What do you say to that which follows: "And the company's improvements at half a million more?" Do your remarks apply to that as well?—A. They might have spent \$100,000 or \$150,000 all told in the whole business; that would be my judgment; they might have raised more money, but I don't think that in the whole business it would amount to more than that.

By the CHAIRMAN:

Q. Do you mean the machinery?—A. In the machinery, bringing it up, and everything.

By Mr. FOSTER:

Q. What do you mean by "everything;" all the operations of the company?—A. The operations of the mine I don't know anything about, but I mean all the buildings and everything. That mill may have cost \$40,000 landed there; I couldn't state; if it did cost more than that it was an outrageous waste. But I say this, that I knew nothing about that in 1868, and I never made any such statement about things I do not know.

Q. The opinion which you now express is simply upon what you saw at the time and heard from others?

Mr. KENNEDY. I object to that.

A. No, sir; my knowledge of the business was from my confidential man, Dr. Storch, who was a mining man, and I sent him over to examine these ores.

Q. I am now speaking about the value of the mines and improvements.—A. Of course, if that was the character of the ore which came out of those mines, which it was, I certainly would not take hold of a mine that would not give more than \$13 ore, and I declined to take hold of it.

Mr. WILSON. Please do not argue the case as we go along; let us have the testimony.

Mr. FOSTER. I am getting an answer to this question; I continue to read:

And if they could have been held and worked by their magnificent machinery and stamp-mill, without interruption, or "prestamos," and with anything like an assurance or hope of protection, I would now value them at three or four times that amount.

Q. Did you make any such statement as that to General A. W. Adams?—A. No, sir; I never knew that they had prestamos.

By the CHAIRMAN:

Q. What is a prestamos?—A. A forced loan.

By Mr. FOSTER:

Q. Did you make any reference to any interruptions which the company had?

Mr. KENNEDY. I want to call the attention of the chairman to the fact that this answer is hypothetical:

If they could have been held and worked by their magnificent machinery and stamp-mill, etc.

There is no statement in this answer that the witness knew or did not know at the time he made it that there had been prestamos.

Mr. WILSON. He says he did not give any such answer.

Q. I continue the reading:

If the parts of the stamp-mill could be found and put together again upon their grounds at Tayoltita, and all the machinery there in as good order as when the same was abandoned by the company, I should value the whole at four to five million dollars, not less than four million (\$4,000,000).

What have you to say to that part of the answer as having been given by you at Mazatlan?—A. As a mining man I would not make such a statement.

Q. Did you make such an assertion?—A. No, sir; I never made such a statement before or since, and I do not believe that I would make such a statement to put the value of a mine at \$4,000,000 when I had not seen it.

By Mr. WILSON:

Q. I would like to have you state whether you did or did not make that statement. I do not want any hypothetical answers or any equivocal answers to that question?—A. No; I never said that a mine was worth \$4,000,000 when I did not know it.

Q. Did you ever make that statement?—A. No, sir; I never made any statement of that kind.

Mr. WILSON. That is what I want you to say.

Mr. FOSTER. Mr. Wilson, you will have abundant opportunity to cross-examine. That is what he has said two or three times already.

Mr. WILSON. I simply wanted an answer to the question.

Mr. FOSTER. Well, you have got it. Now, I continue the reading:

But I do not believe it possible ever to get that machinery together again, as the parts stolen and sold are so scattered over several mining districts in the State, and much of it partially worn out, or refitted to other machinery, so that it would, in my opinion, be better and cheaper to repurchase a new stamp-mill and machinery and bring it there from the United States, than go to the uncertain expense of hunting up or replacing that which was taken away from them at Tayoltita.

A. If I said that then, I say it now.

By Mr. WILSON:

Q. Did you say it then?—A. I might have said it, and that is the truth, that it would be better to put up a new mill than to hunt up old pieces—for instance, a retort. We took two of the retorts that were broken and could not be used over again, and we couldn't do anything else than bring new ones from the United States. If I did say it, I say it now.

By Mr. FOSTER:

Q. The question now is whether you said:

I should value the ores taken out of said mines, and abandoned by that company, in 1868, at half a million dollars, judging from what I have seen there myself, and have heard stated by reliable miners in that district, and also by common report, or public opinion, which is seldom in error among practical miners in such cases.

What have you to say as to the correctness of that declaration?—A. It says here that "I should value the ores taken out of said mines and abandoned by that company in 1868 at half a million dollars." Did you make any such declaration as that at Mazatlan?—A. No, sir; not from what I have seen there myself; and then there is my own statement, made before this examination took place, of that assay (13.50) of the ores that were taken out.

Mr. WILSON. In order to avoid any future controversy about this matter, I would like to have the witness state whether he said that thing in that connection or not.

The WITNESS. As I told you, my answer to General Adams has been perverted, and there is only one thing to do, and that is to bring the original notes that I erased and corrected; bring those sheets of paper; they will show what I said at that time.

Mr. WILSON. I simply want to know whether you said that or not.

Mr. FOSTER. He has answered that he did not.

Mr. WILSON. He has answered it in an equivocal way.

The WITNESS. What I have said or did not say has been changed and perverted.

By Mr. WILSON:

Q. If you did not say that, then it has been changed.—A. Yes; it has been changed.

Q. Now, I want to know whether you did or did not say that?

The WITNESS. Did not say what? I have answered.

Q. Just what he read to you. You can conform your answer just to what Mr. Foster has read to you, and you have it right before you, reading it for yourself.—A. Yes, sir.

Q. I want to know whether or not you said this:

I should value the ores taken out of said mines, and abandoned by that company, in 1868, at half a million dollars, judging from what I have seen there myself, and have heard stated by reliable miners in that district, and also by common report.

A. The common report I have got nothing to say about.

Mr. WILSON. I want to know whether you said that?

Mr. FOSTER. Did you make any such declaration as that to General Adams at Mazatlan?

Mr. WILSON. I want to get at what he said.

Mr. FOSTER. I object to the interruption. If the answers are not satisfactory, you will have an opportunity to cross-examine hereafter.

The WITNESS. My answers have been perverted so that it is hard to say. It says here that I said, "I should value the ores at half a million dollars;" I simply say to that, that if I should value these mines at not less than \$1,000,000, I put them in the same category, when it comes to judging of the value of mines in dollars and cents.

Mr. FOSTER. Did you make any such declaration as that?

Mr. WILSON. One moment. They say that this testimony has been perverted, and he is trying to create that impression here. Now, we have a right to know, when they are putting these categorical questions to him, whether he said that thing or not, and if he did not say that, then let him state what he did say. I do not want this witness to come here and give equivocal answers, about which we may argue hereafter before the committee. I want to know whether he said that or not; then if he says he did not say it, let him state what he did say, and we can cross-examine him upon that.

Mr. FOSTER. I am conducting this examination now. I have asked the witness a question, and I do protest against counsel on the other

side interrupting either my questions or the answers of the witness in the manner in which Judge Wilson persists in doing. I say that if he does not understand the answers given by the witness he will of course have the privilege of interrupting and asking for a more distinct answer, but in the cross-examination hereafter the judge will have a full opportunity to ascertain all that he desires in regard to the knowledge of this witness.

Mr. WILSON. That is what I am doing.

Mr. FOSTER. The time has not come for your cross-examination, and we do not propose that the counsel shall begin now to intimidate and worry and annoy the witness.

The WITNESS. He does not annoy me a bit.

Mr. FOSTER. Or interpose at this time. If he chooses to do so when conducting his cross-examination, it is his privilege, but not now.

Mr. WILSON. I simply want to understand what the witness's answer is.

The CHAIRMAN. The regular practice in court would be that General Foster would ask his questions in a form that suited himself, provided he asked legal questions, and the answers would be taken from the witness. Thereupon the other side would have the right to cross-examine upon those answers and upon any matter connected with them. But I do not believe that Judge Wilson has the right to take the witness out of Mr. Foster's hands and to shape the answer—

Mr. WILSON. No; I do not.

The CHAIRMAN. Unless the answer is going upon the record in some incorrect form.

Mr. WILSON. I only want to know what the answer is.

Mr. FOSTER. You may ask the stenographer to read it.

Mr. LINES. Suppose you could not understand it at all; would you object to it?

Mr. WILSON. Yes. If he put the question in such an unintelligible way that a man of ordinary understanding could not understand it, I would object to it.

The WITNESS. There is a question here and an answer; and all these answers as to whether a portion of the ores were worth a half a million dollars or whether the whole mine was worth \$1,000,000 or whether it would have been worth \$4,000,000—I put those three distinct lines of answer into one and say that I never gave any testimony as to the value of either a portion of those mines or as to the value of the whole mine to General Adams, and I did not even give him my answer in that way.

The CHAIRMAN. That seems to cover it. He gave no testimony about it.

Mr. WILSON. That was what I was trying to get at. That is all right.

The CHAIRMAN. Pass on with the examination.

By Mr. FOSTER:

Q. I continue the reading—

The refuse ores which have been culled over and rejected, and which still remain upon the ground, are worth but little. They might beneficiate as high as a hundred thousand dollars, but I think not to exceed that amount.

Did you make any such declaration as that to General Adams?—A. I did state that the refuse ores were worth but little.

Q. Did you put such an estimate on their value as \$100,000?—A. I put that in same category of the values of either a portion or the whole. But I stated that the refuse ores were worth but little.

Q. Did you make any such statement as that?—A. No, sir; but I said the refuse ores were worth but little.

Q. (Reading.)

I believe four-fifths of the ores of value have been stolen from the company's patios and sold in other places.

Did you make any such statement as that?—A. That is as false as it is possible to put it. I never said that.

Q. (Reading.)

This, too, I only know from common report, which I believe to be true, but from all the circumstances made known to me by Mexican miners at Tayoltita.

Did you make any such statement as that to General Adams as that "I believe it to be true"?—A. No, I did not.

Q. Now I come to question 12:

Question 12th. Do you know whether *Marcos Mora*, *Macario Olivera*, or other Mexican authorities of San Dimas, in 1866, 1867, and 1868, were enemies to "La Abra" Silver Mining Company, or whether any of said authorities encouraged Mexican miners to commit depredations upon said company or their property at Tayoltita, or whether said authorities, or any of them, incited disturbances, or encouraged the expulsion of said company from their mines, and from the country, in the years named?

Ans. I do not know of my own knowledge, but I have heard that all those things were done there by the authorities named. I have heard it stated there that *Macario Olivera*, prefect in 1868, and *Marcos Mora*, whom he succeeded, were enemies of "La Abra" Company, and that they, and some other authorities in the district, acted badly, and favored the expulsion of La Abra Company, but of this I have no personal knowledge.

Did you make any such statement as that to General Adams at Mazatlan?—A. No, sir; I did not. I did not know *Marcos Mora* or *Macario Olivera*, or about any of their disturbance, and I made no such answer to General Adams. I had heard of troubles with the local authorities, but I did not know who was in the right or who was in the wrong.

By Mr. WILSON:

Q. And you did not say anything about any report to General Adams either, did you?—A. Of the common report that there was trouble between Exall and the local authorities, due to his own indiscretion—

Q. I am not asking that.—A. You asked me what I heard.

Q. No; I did not ask you that.—A. I had no personal knowledge.

Mr. FOSTER. We object to Mr. Wilson interposing in this way.

Mr. WILSON. Go on.

By Mr. FOSTER:

Q. (Reading.)

Question. 13th. How many foreign companies were there doing business in mining, in San Dimas district, in 1866 and 1867, and how many are now left in the district of San Dimas? Is there any at all except the Durango Company, which you represent as superintendent?

Ans. There were a large number of American mining companies in that district in the years named; but only the Durango Company now remains.

What do you say as to that?—A. I did not reply at all except that the Durango Mining Company was in existence and at work. I understood you wanted me to say whether I gave that testimony or not, and if I did not give it what I did say. That is what I understand.

Mr. WILSON. No; he asks you in that connection for an answer, and I would like to have you say whether you did or did not say it.

The WITNESS. I say no, with the exception of the latter clause, which mentions the Durango Mining Company.

Q. (By Mr. FOSTER.) (Reading:)

Question 14th. How is it that your company can remain there without disturbances?

Ans. We have had disturbances and difficulties, but we have found it necessary to submit to all exactions, whether lawful or unlawful, which makes it to the interest of the authorities to keep us there; we have found out how to manage and *interest them*, otherwise I suppose my company would be compelled to leave like the others, without a doubt.

Did you make any such answer as that to General Adams in your examination at Mazatlan?—A. No, sir; I did not. What I did say I suppose I can state now.

Mr. FOSTER. Yes; you can state as well as you can what you did say.

A. I stated that if I had been disposed to create a quarrel I could have had all the fight I wanted with the authorities, but that I was not there for that purpose.

Q. Did you make any statement to the effect that you found it necessary to submit to the exactions, whether lawful or unlawful?—A. No, sir; I submitted to no exactions and had none.

Q. (Reading:)

Question 15th. Do you know Matias Avalos, of said district?

Ans. Yes; I know him very well; he is and has been for the last four years in the employ of the Durango Company, of which I am superintendent; he is now with me in Mazatlan, as muleteer and mozo.

A. That is correct.

Q. As stated at Mazatlan?—A. Yes, sir; he accompanied me.

Q. (Reading:)

Question 16th. What is the character of the said Matias Avalos for truth and veracity, in San Dimas, or where he is best known?

Ans. It is good. I look upon Matias Avalos as a strictly honest, truthful, and trustworthy man. I have frequently entrusted him with large amounts of silver coin, which he has always brought safely to the company from Mazatlan, and also with bullion from San Dimas to the mint at Durango, and Culiacan, and he never, as many others have done, reported a loss, which he might have done without detection or suspicion; but his reports are always candid and truthful. He is regarded as a strictly honest, conscientious, and reliable man.

How far does that conform to what you said at Mazatlan to General Adams?—A. That is perfectly correct, except that I added that on one occasion he had lost a \$20 piece, which slipped out of his belt. I recollect that perfectly. I said: "General Adams, he never lost but one piece of money for me, and that was an ounce" (\$16); and on examination of what they call in Spanish the "rattlesnake" (a belt that they wear around the waist), we found where it had worn through, and he offered to replace it, which I declined. But that answer is perfectly correct with that exception.

Q. (Reading:)

Question 17th. Have you heard anything about witnesses having been suborned by Mexican authorities of San Dimas, to testify for the defense against their will, and in contravention of what said witnesses had previously testified to on the part of claimant in this matter, by threats of inflicting a fine of one hundred (100) dollars and imprisonment if they did not come to court and testify against claimant? If you know of any such case, state the names of such authorities and of the witnesses so threatened and suborned; and, if you know, what was the result of the same.

Ans. I have heard of such threats being made by Judge Milan, and by the said Judge Quiros, who succeeded him in office as chief magistrate of the district of San Dimas.

Did you make any such declaration as that to General Adams in answer to his question?—A. Yes, sir. I heard General Adams make

that remark. I have heard statements of such threats being made, and Adams is the one that made them.

By Mr. LINES:

Q. From him you heard it?—A. From him I heard it.

Mr. WILSON. Ask him whether or not he made that statement in that deposition.

Mr. FOSTER. He says yes.

The WITNESS. I heard it.

Mr. FOSTER. And he then proceeds to say—

By the CHAIRMAN:

Q. You answer that you did make that statement?—A. I did make that statement. I have heard of such threats being made.

By Mr. FOSTER:

Q. Then you state that they were made to you by General Adams?

Mr. WILSON. He states that he made the statement, and now he adds that the statements he heard made were made by Adams.

The WITNESS. Yes, sir.

By Mr. FOSTER:

Q. (Reading.)

These threats were made against Matias Avalos and James Granger, both of whom, it was said, had previously testified on behalf of the claim of "La Abra" Company; and I heard Matias Avalos say that said district judge wrote down a statement for him to sign, on behalf of defendant, which was against his will, and not true in point of fact; that said judge wanted Avalos to retract what he had sworn to in favor of said Abra Company, in 1870, and Avalos complained that the judge did not finish reading the paper that he wished him to sign, as he, the judge, said there was "too much noise in the court-room." I heard Avalos say that he believed said paper was sent to Washington, with his name and mark attached to it, as his testimony in favor of Mexico, to which he never consented, as he knew that a portion of that part which had been read to him was not true.

State whether that in whole or in part conforms to any statement made by you to Adams at Mazatlan.

Mr. WILSON. The question is, did he make that statement?—A. No; I did not make that statement as it is there.

Mr. FOSTER. I am propounding the question.

The WITNESS. No; I did not make that statement as it is there.

Q. State in what respect it differs from the statement that you did make, according to your recollection.

The CHAIRMAN. Gentlemen, we will have to suspend here now, as I understand the Senate is in executive session, and I will have to go up to the Senate Chamber. If it will suit you, we will meet again at 10 o'clock to-morrow morning (Saturday), and we will try to sit it out.

Mr. KENNEDY. Before we adjourn I should like to request that the committee call on the Secretary of State to produce the original of this deposition.

The CHAIRMAN. I have already done that.

Thereupon the subcommittee adjourned to meet at 10 o'clock to-morrow, February 2, 1889.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 2, 1889.

The committee met pursuant to call.

Present: Senator Morgan (chairman), Hon. John W. Foster, and Mr. Robert B. Lines of counsel for the Mexican Government, and Crammond Kennedy, of counsel for La Abra Silver Mining Company.

TESTIMONY OF CHARLES B. DAHLGREN—Continued.

By Mr. FOSTER:

Q. Page 405, I continue to read from the deposition of Charles B. Dahlgren, on behalf of claimant, as cited in the examination of yesterday.

Mr. KENNEDY. What answer is that, Mr. Foster?

Mr. FOSTER. It is question 17. I continue to read from the answer:

These threats were made against Matias Avalos and James Granger, both of whom, it was said, had previously testified on behalf of the claim of "La Abra" Company; and I heard Matias Avalos say that said district judge wrote down a statement for him to sign on behalf of defendant, which was against his will, and not true in point of fact; that said judge wanted Avalos to retract what he had sworn to in favor of said Abra Company in 1870, and Avalos complained that the judge did not finish reading the paper that he wished him to sign, as he, the judge, said there was "too much noise in the court-room." I heard Avalos say that he believed said paper was sent to Washington, with his name and mark attached to it, as his testimony in favor of Mexico, to which he never consented, as he knew that a portion of that part which had been read to him was not true.

I ask you, Captain Dahlgren, to state how far this answer, as I have read it, conforms to the statement made by you to General Adams at Mazatlan?—A. Will the preceding paragraph be a part of it?

Q. Well, you have already testified to that part; you can include it if you choose.—A. It reads: "Answer. I have heard of such threats being made by Judge Milan." My reply to that was, and which includes the first part of the next sentence, I have heard of such threats being made from A. W. Adams as against his witnesses, but not mentioning any names.

Q. What have you to say in regard to this statement which I have read?—A. That takes the first part of it. The second comes to Avalos. Avalos, who was my confidential *mozo* or servant, told me that he had been drawn into this thing, or words to that effect, and had made a deposition, and asked me if any trouble would come of it. I asked him if he had told the truth. He said, "Yes." I said: "Then no trouble will come of it."

Q. Did you say anything to Adams to this effect:

I heard Martin Avalos say that said district judge wrote down a statement for him to sign, on behalf of the defendant, which was against his will, and not true in point of fact?

A. No, sir.

Q. You made no such statement?—A. No, sir.

Q. Did you make any statement of this character:

That said judge wanted Avalos to retract what he had sworn to in favor of said Abra Company in 1870, and Avalos complained that the judge did not finish reading the paper that he wished him to sign, as he, the judge, said there was "too much noise in the court-room?"

A. I never heard any such statement and never made any such statement.

Q. To Adams?—A. To Adams. I never heard anything about "noise in the court room."

Q. (Reading:)

I heard Avalos say that he believed said paper was sent to Washington, with his name and mark attached to it, as his testimony in favor of Mexico, to which he never consented, as he knew that a portion of that part which had been read to him was not true.

Did you make any such statement as that to Adams?—A. No, sir.

Q. Did you ever hear Avalos make any such statement?—A. I answered that some time ago, by saying that he told me that he had made a statement and wanted to know if any trouble would come of it. I did not know which side he was for.

Q. Well, that statement that you then made covers—A. Covers all this thing.

Q. All that Avalos said to you at any time?—A. Yes.

Q. I continue to read from the answer:

I have heard of other and similar cases in this matter, but I have no personal knowledge of the facts. I believe the statement of Matias Avalos, however, to be true, for reasons stated in my answer to one of the foregoing questions (No. —).

A. "I have heard of other and similar cases in this matter, but I have no personal knowledge of the facts."

Q. Well, you have heard of them from whom?—A. Of course, I heard of the case, talked *pro* and *con* in my hacienda. We would sit there of an evening and talk of it.

Q. Well, this relates to threats of the Mexican authorities?—A. Oh, the whole business from beginning to end; but it was not my business; I paid no attention to it.

Q. I continue to read from the answer:

I heard the said Granger say that if he had not complied with the demand of the judge of first instance of San Dimas in testifying against "La Abra Company," the claimant, that he knew he would have been compelled to give up his mining interests in that district, and leave the country; which he said he could not afford to do, and therefore he was compelled to sign the testimony.

Do you remember making any such declaration as that to Adams at Mazatlan?—A. No, sir; I never heard of it.

Q. Did you make any such statement as that to Adams at Mazatlan?—A. No, sir.

Q. You state that you never heard of any such?—A. I heard Granger tell all about it, but he never said he would be driven off out of the country; just the reverse.

Q. (Reading.)

Question 18th. Have you any interest, direct, contingent, or otherwise, in the claim of said "La Abra Silver Mining Company," to support which your testimony is here given, or are you agent or attorney for said company, or for any person having such interest?

Ans. No, none whatever; nor am I agent nor attorney for claimant, nor for any other party in interest.

A. That is right.

Q. That is correct?—A. That is correct; it is absolutely correct.

Q. (Reading.)

Question 19th. Was your authority to take from Tayoltita the said stamp-mill, machinery, and other property of claimant, and to make use of the same in other parts of the State, given verbally, or only in writing; and was said property turned over to you with a view to your protecting the same as consul of the United States, for the benefit of claimant, or was said authority given to you only as superintendent of the Durango Mining Company, with the privilege of paying the appraised value, and of owning the same, or to pay for its use to said authorities, or to Mexico, as a business transaction between said authorities and your company?

Ans. The latter is the fact. It was a purely business transaction between Judge Quiros, representing the Republic of Mexico, and myself, as superintendent, representing the Durango Mining Company. There was nothing said by Judge Quiros, to my recollection, about protecting said machinery, stamp-mill, and other movable property of claimant. The transaction was not with me as consul; but, as I have stated, the property was leased for use to the Durango Mining Company, and for a valuable consideration, with the privilege of paying for the same at an appraised value by disinterested parties.

You will please state how far this answer conforms to the answer, if any, given by you to Adams at Mazatlan.—A. My answer to that is—

Q. Or was?—A. Was the correspondence between Judge Quiros and myself.

Q. Which has been read and testified to as correct?—A. Yes; that covers the whole question.

Mr. KENNEDY. Let me ask the witness if he put that correspondence in as part of that testimony?

Mr. FOSTER. Well, you can ask of me.

Mr. KENNEDY. It is just to save time.

Mr. FOSTER. I know, but you had better direct your question to me.

Mr. KENNEDY. I was directing my question to the chairman. If you have any objection I will withdraw it. You can go on, Mr. Foster.

The CHAIRMAN. I thought your question was addressed to the witness.

Mr. KENNEDY. No, it was put through you, of course.

Mr. FOSTER. The letter was put in; introduced before the Commission on the part of Mexico.

Q. The last part of that question is—I direct your attention to it—

Was your authority to take from Tayoltita the said stamp-mill, etc.—

You state that, going to the latter part of the question—

or to pay for its use to said authorities?

Now I will go back—

And of owning the same, or to pay for its use to the said authorities, or to Mexico, as a business transaction between said authorities and your company?

And the answer is that

The latter is the fact.

Did you state to General Adams, in substance, that you are to pay the Mexican authorities for that machinery and other articles that you took of La Abra Company?—A. No, sir; I have stated most distinctly as a business matter in money matters I try to make no mistake; that I had asked permission to take it, that it had been refused to me by Judge Quiros, and that then I took it on my own responsibility as superintendent of that company, and announced my intention of paying whoever came forward to claim it is as the proper owner.

Q. I continue the answer—

This authority was given to me by Judge Quiros verbally, as well as in writing, and I have acted upon it in good faith, believing then, as I still feel justified in believing, that he must have had authority from the Supreme Government to act in the premises, or otherwise it is reasonable to suppose that he never would have taken such a step in the matter as that of selling or leasing out this property, under the circumstances, to be worn out by use.

Did you make any statement of that character to General Adams at Mazatlan?—A. No, sir.

Q. Here follows—

By the CHAIRMAN:

Q. Do you mean, captain, that you did not make any statement to

him on that subject?—A. I did not make that statement to A. W. Adams.

Q. The statement, as he put it in the deposition, was not the statement you made to him?—A. I did not make that statement to A. W. Adams.

Mr. KENNEDY. Of course, Mr. Chairman, we do not admit that Adams made any statement.

The CHAIRMAN. I know, but I put it on the basis that somebody did.

By Mr. FOSTER:

Q. I find the following added in brackets in the deposition as printed on page 406:

[“Interlined in the original:” Page 2, lines 16 to 17, the words “a son;” page 2, lines 29 to 30, the word “an;” page 6, lines 17 to 18, the word “the;” page 7, lines 5 to 6, the words “the stamp;” page 7, lines 27 to 28, the word “said;” page 9, lines 32 to 33, the word “them;” page 11, lines 22 to 23, the word “be.”

[Erased: Page 1, third line from bottom, “bef.,” page 4, line 42, “Buena Vista;” page 15, line 12, the word “said.”

[“The above corrections were noted before signing, with the consent of deponent and in the presence of the subscribing witnesses.”]

The WITNESS. Who are the witnesses?

Mr. FOSTER. That will appear in a moment.

Q. Now, captain, you have already stated that when you gave your statement or deposition at Mazatlan, which was written down, you gave your answers to questions propounded by General Adams which were written down by his clerk; after that was concluded you demanded to see the matter that had been written and thereupon you made numerous changes and interlineations in that writing or paper?—A. I did.

Q. Will you state whether the changes and interlineations which have just been read embrace all the changes or interlineations that were made by or in your presence at that time?—A. No, sir; nor the twentieth part of them. Line after line I cut out—drew my pen through. I not only drew it through that way but I drew it across the entire page right that way [indicating], with a big dash. I said, “I did not authorize you, sir, to make such a memoranda as that.” And I further said to him, “This appears to me something similar to the investigation in San Dimas,” where I had to protect Granger against him.

Q. What was that?—A. Granger was my right-hand man, my book-keeper. He was a man of small stature and not pugnacious at all. Adams was a big man and attempted to sit upon him. I heard the noise of the altercation and I had to stop it.

Mr. KENNEDY. Mr. Chairman, I would like to ask whether anything that Adams did or said, now that Adams is dead, unless it is strictly relevant to the examination which Mr. Foster is conducting, is to be admitted by this committee?

The CHAIRMAN. Nothing ought to be admitted, Mr. Kennedy, that is not relevant, but it certainly is relevant to show that Mr. Adams, acting as the agent of this company, made any improper demonstration, if he made any, towards Granger, or any other witness that he was out there examining, because one of the very crucial points in this matter is the question whether or not this testimony that went before the commission was fairly obtained and was reliable.

Mr. KENNEDY. Will the chairman allow me to state very briefly what I understand to be the rule of law upon that point?

The CHAIRMAN. Well, I am acting more under the rule of the Senate in making this investigation, though I have no objection to your stating it.

Mr. KENNEDY. My understanding is that the declaration of a party made to a third person is admissible in evidence against the common-law rule excluding hearsay, on account of some element which the law considers of sufficient importance to justify setting aside the rule excluding hearsay. For example, I admit that if General Adams had said to this gentleman, when this gentleman was testifying, that the deposition of the gentleman was not to be used before the Mixed Commission and as a matter of fact the deposition was afterwards used before the Mixed Commission, this gentleman could testify as to what Adams said on that point at the time, although Adams is dead, because it would be part of the *res gestæ*; but I never heard of any proceeding, even of the most informal character that had anything judicial in its nature, that would allow conversations or acts of a party who could not be examined to defend himself, for any reason, whether he was dead or absent, being received in evidence, unless they were of the *res gestæ* or against interest, and I desire to protest most earnestly against any acts or declarations of General Adams being received here unless it is for some reason that the law considers good.

Mr. FOSTER. It is to be borne in mind that the witness proposes to tell now what he saw and heard between General Adams, the representative of the company, and Granger, a witness for the claimant. It would be proper in various lights, as has already been stated by the chairman. In addition to that, it would be proper, in order to impeach Granger's testimony, if it had any pertinency in that direction.

The CHAIRMAN. Impeach Granger's deposition, you mean?

Mr. FOSTER. Granger's deposition.

The CHAIRMAN. I think it very clear that it is the duty of the committee to inquire into all the circumstances attending the taking of these depositions.

The WITNESS. Ask if, in 1877, I could have been before the court; because I am too well known on the Pacific coast to have a man like Adams say that he bought me for a good round sum of money.

Mr. FOSTER. I know you had feeling.

The WITNESS. I had feeling, and I wrote out, right there on the spot; and if I could have come across Adams there would have been trouble.

Mr. FOSTER. Well, we will not go into that, because that is a matter personal between you and Adams.

The WITNESS. I only say this to show it is twelve years ago (1877), and I had not heard of this thing since; had forgotten it; did not know that Adams was dead.

The CHAIRMAN. It seems to me entirely clear that it is proper to show what the witness saw in regard to the taking of Granger's deposition and the bearing of Adams towards him.

Mr. FOSTER. Will the stenographer read the statement?

The stenographer read the answer as follows:

A. Granger was my right-hand man; he was my book-keeper. He was a man of small stature and not pugnacious at all. Adams was a big man and attempted to sit upon him. I heard the noise of the altercation and I had to stop it.

Mr. KENNEDY. There is one thing in which I have no doubt you will agree with me, Mr. Chairman, that if this witness is to go into the conduct of Granger and Adams, he should not be allowed to use such words as these, that Adams "attempted to sit upon him."

The CHAIRMAN. I think the witness had better use some other phrase.

Mr. KENNEDY. No, but my point is not as to the phrase. I don't care anything about what Adams said; but my point is that the wit-

ness said that Adams "attempted to sit upon" Granger. The witness should not describe Adams's conduct, but should say what Adams actually said to Granger, and I ask the chairman that—

The CHAIRMAN. I will be certain to bring that out.

Mr. KENNEDY. But it is already out.

The CHAIRMAN. Well, it will be stricken out of the record unless it is proper to go in.

Q. What we want to get at, captain, is what Adams did, if anything, for the purpose of intimidating or in any way controlling Granger?—

A. When Mr. Granger asked to see the testimony Adams read it.

Q. What testimony?—A. The testimony that Granger had given. And he said, "General Adams, I did not give that testimony." He jumped up and walked to him with his fist doubled up and put it under his nose and said, "You did give it; do you call me a liar?" and threatened to strike him. And I said, "Get out of here."

Q. That was before you testified at Mazatlan?—A. Yes, I had no interest in this thing at all.

Q. I suppose that was the reason why, at Mazatlan, you were careful to have your testimony taken down precisely as you gave it?—A. Yes, sir; I wanted to see it.

By Mr. FOSTER:

Q. This occurrence you have just related occurred at what place?—A. At my hacienda at San Dimas where he examined Granger.

By Mr. LINES:

Q. Was that the result of that trouble; that you told Adams to leave the hacienda?—A. No, sir. He apologized for it, and I said if he would not repeat it he might stay at the hacienda. Otherwise he should go up to the town.

Q. But as to Granger's testimony?—A. I don't know. As I said, it was not a matter that concerned me, and had my own affairs to look after.

By the CHAIRMAN:

Q. Did you follow it up to see what was the deposition that Granger made?—A. No, sir.

By Mr. FOSTER:

Q. What was the date of the occurrence?—A. I have told you at the time of his visit, just before the rainy season.

Q. About May or June, 1872?—A. I could not tell you exactly.

Mr. FOSTER. I simply call attention to the fact that the claimant never filed Granger's deposition that was taken there.

Mr. KENNEDY. What is that, Mr. Foster?

Mr. FOSTER. I say that the records show that the deposition of Granger that was taken at that time was never filed by the company, the claimant, before the Commission.

Mr. KENNEDY. Now, Mr. Chairman, as this is a statement of fact, interpolated in the examination of the witness, I want to state that the record shows that the deposition of Granger on behalf of the company was filed by the company, and also that three or four separate depositions of Granger, taken by the Mexican Government in its own behalf, were also filed before the Commission.

The CHAIRMAN. Were they before the Commission?

Mr. KENNEDY. Yes; all before the Commission.

Mr. FOSTER. It will be a more complete statement when I add—

Mr. KENNEDY. Mine or yours ?

Mr. FOSTER. Yours will be more complete when I add that Granger's depositions filed by the claimant were two in number, and they both bear date in 1870, and no deposition of Granger's filed by the claimant bears date 1872.

Mr. KENNEDY. Now, Mr. Chairman, I think my friend, Mr. Foster, is laboring under a misapprehension. The witness can explain that perhaps, but my understanding is—

Mr. FOSTER. He knows nothing of the records.

Mr. KENNEDY. I am speaking by the record, and I do not interrupt you when you are making your speech. My understanding is that in 1870 Granger was examined before Mr. Sisson at Mazatlan, and that the question which arose between Granger and Adams, as testified to by the witness, was in regard to whether Granger had said thus and so in the deposition which had been taken at that time on behalf of the company.

Mr. LINES. What time, Mr. Kennedy ?

Mr. KENNEDY. 1870.

The WITNESS. I can name two important witnesses who were present and heard the whole thing.

The CHAIRMAN. Give the names.

The WITNESS. Dr. J. P. Stork, my assayer ; he heard the whole business, and he took an interest in it, and I don't know what term to use unless it is bulldozing. He assayed all the ores of Tayoltita.

By Mr. KENNEDY :

Q. What is his address ?—**A.** I don't know.

Q. Is he living ?—**A.** He was a year ago.

Q. Don't you know where he is ?—**A.** I heard of him last down in Chihuahua, where he went to put up a mill, but I can ascertain and let Senator Morgan know.

Q. Who is the other witness ?—**A.** The other one is a young man, the machinist who brought all the machinery over from Tayoltita.

Q. What is his name ?—**A.** He is an Englishman. His name is Williams.

Q. Where is he now ?—**A.** I had a letter from him in Brooklyn about three months ago. He came back to the United States. He told me he was going to return to Central America. I have his letter there and can give it when I get back to Trenton.

Q. Well, one of your witnesses, you think, is in Central America, and the other is down in Chihuahua ?—**A.** I don't know where he is, but those are the two men who were present and know more about it than I do, because they paid attention to it.

Mr. LINES. I suppose it is proper to say that we never heard of these witnesses before.

The WITNESS. And they are the men who acted under my orders and tore that machinery down and took it over to Tayoltita. Dr. Stork is the assayer and has the records of all the assays and work for the five years while I was there.

By the CHAIRMAN :

Q. At San Dimas ?—**A.** Yes.

The CHAIRMAN. Well, let us get along.

By Mr. FOSTER :

Q. Do you know whether these two gentlemen you have named were at San Dimas or Tayoltita during the time La Abra Company was working the mine ?—**A.** No, sir ; they were under my régime.

Q. Yes; you are speaking of your régime.—**A.** But they heard this testimony as given at that time.

Q. Yes; I understand. Following your signature, as printed is—

Witness:

(Signed),

H. DIAZ PENA.

Do you know who H. Diaz Pena was?—**A.** Yes, sir.

Q. Was he present at the taking of your deposition by Adams?—**A.** He was. He took the notes; Adams had a sheet of paper and wrote too, but Pena did the writing. He was his amanuensis or private secretary.

Q. Was he employed by Adams?—**A.** He was.

Q. Did he have any official relations with the consulate so far as you knew?—**A.** No, sir; I think he had none.

Q. Did he accompany Adams in his first visit to the hacienda at San Dimas that you described?—**A.** Before the rainy season?

Q. Yes.—**A.** He did; he came in with him.

Q. Then follows—

Sworn to and subscribed before me this 18th day of September, A. D. 1872.

(Signed)

ISAAC SISSON,

U. S. Consul.

A. When I signed the blank sheet of paper Sisson was present, and wrote or it was written:

Sworn to and subscribed before me this 18th day of September, A. D. 1872.

Sisson was present. I handed him that blank sheet of paper.

Q. Well we will inquire more particularly about that hereafter.

Mr. KENNEDY. I want to ask the witness, Mr. Chairman, if it is true.

Mr. FOSTER. Well, you can ask the chairman.

Mr. KENNEDY. I am just going to ask the chairman if he will not allow me to ask this witness a question under the circumstances of the case. This testimony impeaches the personal integrity and official conduct of a consul of the United States.

The CHAIRMAN. Who was the consul?

Mr. KENNEDY. Isaac Sisson. He was acting under the instructions of the Department of State of the United States in taking testimony to be used on behalf of our citizens before this United States and Mexican Commission. Now I want to ask this witness this question: Whether he swears that in such a proceeding he signed his name on a blank piece of paper and took an oath before Almighty God in the usual form.

Mr. FOSTER. Well, he will not answer that at present.

The CHAIRMAN. Wait a moment.

Mr. FOSTER. I submit the question to the chairman.

The CHAIRMAN. The witness has already stated that he did sign his name to a blank piece of paper; that he gave it to Mr. Sisson with the understanding that Mr. Sisson would have it copied precisely as he had given a memorandum which had been prepared by Pena as the writer under General Adams's direction. He stated also that he did not remember whether he had taken the corporal oath or not.

Mr. KENNEDY. He just said he did, and my question is in regard to that.

The CHAIRMAN. I speak of the early part of this examination; he said he did not remember.

Mr. KENNEDY. Oh, yes; that is true.

The CHAIRMAN. He said he did not remember whether he had taken the corporal oath or not. Now he states he was sworn.

Q. Now, I ask you what time you were sworn before you gave your deposition?—A. I recollect when I wrote my name. I have seen the document and I recognized my name. I handed it to Sisson. I said, "Consul Sisson, I put this in your charge, to have this transcribed and written, the rough notes," supposing, of course, as a colleague of mine, as one consul for another, that he would act for me. I had just received information that imperatively called me away. It was absolutely necessary to go. I could not delay. It was not my business to tell them that. When I took this to him he said, "You swear that this is the truth, the whole truth, and nothing but the truth?" I said, "I do."

By Mr. KENNEDY:

Q. Alluding to the blank sheet of paper?—A. Alluding to the testimony I had given.

Q. And signed a blank sheet of paper and handed it to him?—A. That is it.

By Mr. FOSTER:

Q. Did you not state that you signed the testimony written down by Adams?

Mr. KENNEDY. I have no objection to the question, but——

The WITNESS. I did not say——

The CHAIRMAN. I will have to take this myself.

Q. You now state that you were sworn?—A. Yes; that I was sworn at first!

Q. No; you state that you were sworn. When the consul that administered that oath to you did so, did he have in his hand or did you have in your hand a paper to which that oath applied?—A. No, sir.

Q. What statement was it that you had made that you swore on that occasion was a true statement?—A. I told you that I had a long and tedious interview with Adams, and that I gave a deposition, which was corrected, numerous corrections, whole lines cut out, and that he said, "This is not fit to hand in as testimony."

By Mr. KENNEDY:

Q. Who said that?—A. Adams. After I had dashed my pen through it he said, "This is not fit to hand in as testimony." I said, "No, of course, it is not; it was not fit before I drew my pen through it." I said, "I have got to go; I can not stay any longer; I have got an imperative letter that calls me away." He said, "What can we do?" I said, "I don't know." Sisson had come in with a letter-book or letter-press, or what not, and I said, "I will sign a blank sheet of paper and deliver it to Consul Sisson. He is to have transcribed the testimony which I have given, which is all I can do."

By the CHAIRMAN:

Q. Now, Captain, nothing had been transcribed at the time you took that oath?—A. No, sir; not one word.

Q. Of course, then, you swore to the original statement drawn up by Peña, but as amended by you?—A. As amended by me.

The CHAIRMAN. Very good. That settles this.

Mr. KENNEDY. Now, Mr. Chairman, will you ask him ——

By the CHAIRMAN:

Q. Did you affix your signature at all after that single blank sheet

of paper; did you sign your name twice?—A. No, sir; I don't think I did, because it was in such bad shape that I would not.

Mr. KENNEDY. Well, we will see when we get the document.

The CHAIRMAN. All right; we will see when we get the original paper.

Q. You have looked at the paper since you have been here?—A. I have.

Mr. FOSTER. I continue:

CONSULATE OF THE UNITED STATES OF AMERICA,
Port of Mazatlan, Mexico, ss :

I, Isaac Sisson, consul of the United States of America in and for the port of Mazatlan and the dependencies thereof, do hereby certify that I have no interest, direct, contingent, or otherwise, in the claim of "La Abra Silver Mining Company," in support of which the foregoing testimony is taken; that I am not the agent or attorney of said company, nor of any person having such interest; that I am competent and duly authorized under the laws of the United States, and by special orders from the Department of State for the same, to take depositions to be used in evidence before the Joint American and Mexican Commission, in session at Washington, under the treaty of July 4th, 1868; that Charles B. Dahlgren, the witness herein, personally appeared before me, at my consular office in Mazatlan, State of Sinaloa, Mexico, on the day and at the time hereinbefore stated, and that he was by me first duly sworn, as a witness on behalf of claimant, to state the truth in answer to said interrogatories, propounded by me, touching the merits of the above-entitled cause, as hereinbefore set forth, and was thereafter duly examined, and that the foregoing testimony was given by him, and thereupon reduced to writing by H. Diaz Peña, in my presence; and I further certify that said H. Diaz Peña, who transcribed said testimony, has no interest, direct, contingent, or otherwise, in the said claim, and is not the agent or attorney of said claimant, nor for any person having such interest; and I do further certify that said Charles B. Dahlgren, the witness aforesaid, is what he represents himself to be in the foregoing deposition, and that he is a man of the highest respectability, well known to business men of Mazatlan as a competent and responsible person, and that full faith and credit may be given to all of his acts, and to his testimony in this cause; that the foregoing deposition, when completed, was carefully read over by me to said witness, before signing, in presence of the subscribing witnesses, and was by me corrected in every particular desired by him, and he then and there declared his testimony as hereinabove set forth.

Given under my hand, and the seal of this consulate, the day and date above mentioned.

(Signed)

ISAAC SISSON,
U. S. Consul.

[Seal of the U. S. consulate for Mazatlan.]

I want to ask you, Captain Dahlgren, whether the consul read to you any interrogatories; were any interrogatories propounded to you by the consul at that time in Mazatlan?—A. No, sir.

Q. I want to ask whether the foregoing deposition, or any deposition, when completed, was carefully read over by the consul, Isaac Sisson, to you?—A. No, sir.

Q. Before signing?—A. No, sir; not one word. I never saw the deposition after the rough notes.

Q. I want to ask you—A. Until day before yesterday or a few days ago.

Q. I desire to ask you whether, in the presence of the consul, you corrected any deposition presented to you by him?—A. Never; never one word, sir.

Q. I will ask you whether you declared to the consul that the foregoing deposition which I have read, or any deposition, was declared by you to be your testimony?—A. When I handed him this paper—

By Mr. KENNEDY:

Q. What paper?—A. The blank sheet of paper with my name on it. He said: "Hold up your right hand," and said words to this effect: "This

is the truth, the whole truth, and nothing but the truth?" I said, "It is."

By Mr. FOSTER:

Q. And it was to that paper only that you declared your conformity as being your testimony.

Mr. KENNEDY. Will you let me ask you a question?

The CHAIRMAN. Well, he has stated that, gentlemen, I think, fifteen times in this examination, and I can not permit it to be gone into any further.

Mr. FOSTER. Mr. Chairman, I desire to state that if we had the response of the Secretary of State to the request which I understand you have made, I would now present the deposition on file, but I will reserve the right to do that when we are able to have it before us.

The CHAIRMAN. With that reservation do you close your examination?

Mr. FOSTER. On this point.

Q. When did you first become acquainted with James Granger?—A. When I first reached San Dimas, in July, 1870.

Q. What was Granger's occupation at that time?—A. He had been book-keeper for my predecessor, Ralph Martin, and I retained him in that position during the five years and two months that I was there.

Q. Are you familiar with Granger's handwriting?—A. Oh, yes, sir; I would know it anywhere.

Q. Did you learn anything from Granger as to the conduct of La Abra Company and its affairs?—A. After this examination (I had been there a couple of years and of course had heard of the end of La Abra Company, but I never paid much attention at all) I said, "Granger, what is all this trouble about?"—

Mr. KENNEDY. Now, one moment please, Mr. Chairman. I want to object to anything that Granger said after he left the employment of La Abra Company. I don't think he ever was employed so as to be an agent in the legal sense to bind the company.

The CHAIRMAN. I know; but after the employment ceased, after he left the employment of the company, I don't think anything he said would be relevant.

Mr. FOSTER. Mr. Chairman, my object is to impeach Granger's testimony before the Commission. He has given a deposition before the Commission in which he goes into a detailed account of what occurred at the hacienda.

The CHAIRMAN. You mean an examination when he was personally present.

Mr. FOSTER. When he was personally present at the mine.

The CHAIRMAN. That he there gives a history of occurrences as he witnessed them and you want now to prove counter-statements?

Mr. FOSTER. Made by Granger in that respect.

The CHAIRMAN. How could that be competent evidence unless predicate be made.

Mr. FOSTER. We have proved that Granger is dead.

The CHAIRMAN. Well, does the death of the witness create any exception to the rule? Here, now, you want to impeach a witness by introducing declarations of his made at a different time, and to a different person, the subject-matter of which you say contradicts what he swore to in that examination when he was living. It is very clear you could not do that in that way, without first giving Granger the chance to say whether he had or had not said such a thing to Captain Dahlgren. His being dead I don't think makes any difference.

Mr. FOSTER. He occupies the attitude before this committee of being a witness before the Commission, and also a representative of the company; he was left there by Exall.

The CHAIRMAN. Now, if you can show that, at the time of these declarations, Mr. Granger was in charge of the business of the company, and had an unexpired employment, that might make it competent, but put it entirely on different ground than that you now put it on. You are now seeking to impeach the witness by contrary declarations, of which he had no notice at all, and I think the witness should know the time and place of making the declarations, so that he could make any explanations he might wish about it. Some man might, for virtue sake, even lie to another of matters he had testified about, or was about to testify about, and when his attention was called to it say, "I deliberately informed that man falsely, because I knew he had no business to know what I knew about this transaction, and I thought he was trying to get it out of me for an improper purpose." I do not think I could let that in.

Mr. FOSTER. You will bear in mind, Mr. Senator, that we have proven a letter-book, and it shows that Granger was left in charge of the hacienda by Exall.

The CHAIRMAN. Well, any letter of Granger's written during his employment there will, in my judgment, be competent evidence, although Mr. Kennedy insists that Granger was not in the employment of that company in any such way as to make his declarations evidence against it. I differ with him on that. I think the evidence does show that Granger had such connections with this business as that his declarations would be competent while he was engaged in the transaction of any of the business of the company. After he had passed out of the employment of the company his declarations of what he had done before, although they contradict what he swore to before the examination, it seems to me, would not be competent. It could only be competent as a predicate for impeachment, and that predicate has not been made.

Mr. KENNEDY. Now, Mr. Chairman, there is a fact that has not been brought to your notice by the other side, and it is this: In 1870 Granger was examined as a witness on behalf of the claimant. Two years afterward, twice or thrice after that, Granger was examined by the Mexican Government, which had had notice and knowledge of his original deposition in favor of the company. Now, I submit that when the Mexican Government exercised its right so carefully and repeatedly to put this witness to the test by examining him on their side, that it is utterly incompetent for the Mexican Government and its agent to offer anything more from Granger on that subject.

The CHAIRMAN. Oh, I think a man can be examined for the purpose of impeaching his own deposition. I think so. I think if a man gave a deposition in your behalf formerly, then I, being your antagonist in the case, when I came to examine him again to prove what he swore before was not the truth, I would not be bound to give credit to the man's veracity by putting him up the second time, for the reason that I put him up for the very purpose of showing that he had committed perjury. Some man might even be willing to admit that he had committed perjury and go to the penitentiary for it.

Mr. KENNEDY. True, but let me give you a case. Suppose it appeared in a motion for a new trial that part of the evidence on which a new trial was sought for was the testimony of a man who had been three times examined by the party who was seeking to re-open the judg-

ment, would the court for a moment entertain such a ground as that for opening the judgment?

The CHAIRMAN. It might not, Mr. Kennedy; but this is not a court sitting here now. It is neither the Senate, nor is it the court to whom this bill seeks to refer this whole question for re-examination. We are here in the capacity of a subcommittee or commission to take the evidence admitted, and I only rule out those parts of it that are obviously illegal, leaving it to the general committee and to the Senate to say how far they regard those matters which depend upon the technical principles of law or other value as evidence. Let us get ahead with this. I want to try and get through with it if I can.

By Mr. FOSTER:

Q. I have in my hand the letter-press book of La Abra Company, as proven before the committee, and I direct your attention to the letter on page 189, Captain Dahlgren, and ask you to tell me in whose handwriting is that letter and whose is the signature?—A. (Examining book.) Why, that is James Granger's letter and handwriting and signature. I never saw Exall's writing.

Q. There is another letter if I can find it.

Mr. KENNEDY. Is the book indexed?

Mr. FOSTER. No.

Mr. KENNEDY. Well, you can prove that any time. I will not object to that.

Mr. FOSTER. Mr. Chairman, will you allow me to ask the witness to give any statements of Granger's relating to his operations, what he did at Tayoltita after Exall turned over the affairs of the company to him and he remained in charge?

The CHAIRMAN. If he was then in charge at the time he made the declaration, yes, If not, no.

Mr. LINES. Well, that question, Mr. Chairman, might depend upon the force to be given to the letter of Exall upon leaving the mines, which is very short.

The CHAIRMAN. Has that been proven?

Mr. LINES. This is proven.

TAYOLTITA, Feb'y 21st, 1868.

Mr. JAMES GRANGER:

SIR: As circumstances are of such a nature as to compel me to leave for San Francisco, and probably for New York, to inquire into the intentions of this company, I place in your hands the care and charge of the affairs of the La Abra S. M. Co., together with its property.

You are invested hereby with all power confided to me, of course acting in all your transactions with an eye to the interests of the company.

This will, to you, should occasion require it, be ample evidence of the right possessed by you to act in their behalf.

Very respectfully,

CHARLES H. EXALL,
Adm'r La Abra S. M. Co.

The WITNESS. And I can confirm that.

The CHAIRMAN. That is a very broad authority, if Mr. Exall had the right to give it.

Mr. KENNEDY. That is the point, Mr. Chairman. Mr. Garth swore—

The CHAIRMAN. I believe that Exall was the agent of that company. That is my conviction on the testimony. There is a good deal of testimony on that subject, and my conviction is a fixed one that he left Granger there as the agent of that company, and it was legally done.

Now, anything he said or did while he was there in that capacity is competent evidence.

Mr. KENNEDY. I agree with you on your premises.

The CHAIRMAN. But anything he said after he had left and had gone into the employment of the San Dimas Company is not evidence, in my judgment.

Mr. KENNEDY. That is the point, and the evidence shows that Granger was book-keeper for the San Dimas Company at the time he made the alleged statement.

By Mr. FOSTER :

Q. What was your experience with the authorities of San Dimas during your residence there as to their conduct towards your company ?

Mr. KENNEDY. Mr. Chairman, is it relevant what the conduct of the authorities was towards this gentleman ?

The CHAIRMAN. Oh, I think the general bearing of the Mexican authorities to the miners is competent, because that is one of the reasons alleged by this company why they quit this mine. The very question in the case is whether they quit with threat or whether they quit because they could not make any money.

Mr. KENNEDY. Well, you can not prove a negative.

The CHAIRMAN. Oh yes, you can. You can prove a hollow by proving two hills. Of course, you can do so.

Mr. KENNEDY. What I mean is, if the Mexican authorities were as kind as possible to Captain Dahlgren, it does not follow—

The CHAIRMAN. Well, I will ask if Mr. Foster thinks that any—

The WITNESS. You want to understand what my experience was in that connection.

Mr. FOSTER. Just read the question to connect the answer.

The stenographer read the question, as follows :

Q. What was your experience with the authorities at San Dimas during your residence there as to their conduct towards your company ?

A. My experience was that of my two predecessors and my four successors.

By the CHAIRMAN :

Q. How do you know it was ?—A. Because I know up to a week ago what took place in San Dimas.

Q. You had better confine yourself to your own experience.—A. I was properly treated.

By Mr. FOSTER :

Q. Did the authorities attempt at any time to interrupt the operations of your company ?

Mr. KENNEDY. Do not ask him a leading question. You have asked him to tell—

By the CHAIRMAN :

Q. If they did what did they do ?—A. They never interfered with me except to say that I must work the mine according to ordinance. On one occasion when I was in great financial straits, and could not stop the mine without producing a bread riot, which I have recorded in my diary, the *efe politico* came down and said, "Don Carlos, don't go away or there will be a bread riot."

By Mr. FOSTER :

Q. What do you mean to imply by a bread riot ?—A. The moment I

shut down the mine a couple of hundred men were thrown out of employment. They might go down and get drunk and they could not be responsible for results. I then called up eight or ten of the principal men and gave them permission to work in the different *labores* on tribute.

By the CHAIRMAN:

Q. What is a tribute?—A. Giving me an eighth or a tenth, or something of that sort.

By Mr. FOSTER:

Q. State what is the practice of the authorities in the mining districts of Mexico in regard to protecting the workmen as against their employers, or interfering as between the employers and the workmen in regard to their wages and treatment?—A. They exercise all over the Republic the right to protect the mines against bad working and their workmen against injustice and the employers against violence or stealing of ores.

Q. Is it or not a common occurrence for the authorities to direct the proprietors of mines or those having charge of them as to the manner in which they shall deal with their workmen in respect to their pay in cash or in goods, or in regard to their treatment?—A. They say the men must be paid every week at least; that the mine must be worked in *ordenance*, so that the lives of the men are not endangered, and if a man be lost in the mine you have to make the family a weekly allowance.

Q. Suppose a contract existed between a mining company and the miners that they would pay the miners two-thirds in goods, supplies from the store, and one-third in cash, and the company attempted to pay all in goods or reduced the amount of the cash payment, would the authorities exercise the right to interfere to protect the miners?—A. In case it had been an agreement between the parties?

Q. Yes.—A. The authorities would hold you to the contract.

By Mr. LINES:

Q. In what way; what would be the form of the interference by the authorities?—A. It would be by putting in an interventor, a Government official, to see—not to direct your workings of the mine, but that the legal agreement was carried out.

Q. He would supervise the distribution of the proceeds?—A. The distribution of the proceeds, but not the working of the mine.

Q. There would not be any lawsuit about it in the ordinary American sense of the term?—A. There would be certain formalities in the court by which the judge would appoint an interventor. That man would come down to us and present his credentials. The man would have quarters at the hacienda. He would have a right to examine the proceeds of the silver and the books, and see what your debts were, first that the men were paid, and then that the merchants were paid, and the distribution made according to the agreement between the operatives and the mine.

By Mr. FOSTER.

Q. State what is the practice in regard to your workmen's responsibility for debts due a mining company?—A. The men are held liable for the advances made to them and can not leave the district until they are paid or worked out.

Q. State whether or not the stealing of ores from the hacienda or mines of the company is a common occurrence in Mexico.—A. All over

the Republic, rich ores; so that when they are taking out a rich ore they have a man at each mine called the searcher, whose business it is to search the men.

Q. Going in and out?—A. Yes.

Q. Both of the mine and out of the hacienda?—A. More in the mine than the hacienda, because in the hacienda there are fewer men and they know they are not there for life, and there are fewer inducements to steal.

Q. Did you have difficulties while you were conducting your mining operations in that respect, the stealing of ores?—A. I do not like to answer that question, because it has no bearing upon this.

Q. Well, you do not understand the bearing of all the questions we put to you, captain?—A. I had no trouble.

Q. Is it a common occurrence in the mines of the United States, where you have had experience?

Mr. KENNEDY. Oh, I object to that.

The WITNESS. Yes, sir; it is equally as much in the United States.

Mr. KENNEDY. You see, Mr. Chairman, the question is not about stealing ores, but about getting justice against the thieves in Mexico. That is the point.

The CHAIRMAN. It is not a very material matter any way, I think.

By Mr. FOSTER:

Q. Did you, while you were in charge of your mines at San Dimas, make any visit to the mines at Tayoltita that were formerly owned by La Abra Company?—A. I did not, because I had sent my man over, but I accompanied Henry Janin on one occasion to one of their mines.

Q. What was the name of that mine?—A. The Arrayan.

Q. Did you examine that mine?—A. I accompanied Janin, who had been approached for the purpose of buying the mine.

By Mr. KENNEDY:

Q. When was this, captain?—A. (Referring to diary.) That was Tuesday, July 9, 1872.

By Mr. FOSTER:

Q. Well, what was the result of your visit?—A. Shall I read it just as I have it recorded?

By Mr. KENNEDY:

Q. Let me ask if that was recorded at the time?—A. Yes, sir; I made this at the time: "I visited at Arrayan with Janin and Colderroon; found everything nice and clean for inspection; a narrow seam of ore, but not a business transaction for anything but tributors."

Q. Then, was the Guadalupe another one of their mines?—A. I think not; I am not aware of it. We also visited the Guadalupe mine. The ore assayed—

By Mr. KENNEDY:

Q. At the same date?—A. Yes. We took samples and took them back, and I had Dr. Stork make assays. "The ore assayed, silver, \$8; gold, \$5.50; total, \$13.50. There were 300 cargas of all kinds on the patio."

By Mr. FOSTER:

Q. Anything else?—A. "Janin opposed to fitting up the Tayoltita mill." That is all I have recorded of it. That is the only time I visited their mines and he did not buy any mine or attempt to work it.

Q. Did you reduce any of the ores of the Tayoltita mines in your works at San Dimas?—A. I did for nearly a period of three years.

Q. Can you fix the years?—A. Part of 1872, 1873, 1874, and part of 1875.

Q. Give us an account of the character of the ores and the results of the reduction.

MR. KENNEDY. Will you not ask him to tell us where he got that?—

A. They were brought to me by *buscones*—men who go into an abandoned mine to work it.

By Mr. FOSTER:

Q. I want you to state the character of the ores and the result of the reduction.—A. They would bring me at times from 25 to 50 pounds—never more than 100 pounds at a time—25 pounds, which is an aroba, up to 4 arobas, 100 pounds.

By the CHAIRMAN:

Q. You mean of ore?—A. Yes; they would pack it up on their back.

By Mr. FOSTER:

Q. What was done with it?—A. Not knowing the ores well, I paid them cash for the ores and threw them with other ores and worked them, taking a sample of them before I did so.

Q. What did it indicate, as to the paying quality of the ores?—A. The ore that they brought over was good, but in such small quantities, as indicated, which only a "buscone" could heave up; they might be a week or two weeks in getting out a quantity of rich ore.

Q. Did it or not indicate that a company could take the mines and work them to advantage?

MR. KENNEDY. I think that is improper, Mr. Chairman.

THE WITNESS. I remember a large quantity of ore which I found on the patio, and which simply did not pay for working.

THE CHAIRMAN. Is there any necessity for pressing that?

MR. FOSTER. No.

THE CHAIRMAN. I do not think there is.

THE WITNESS. Every abandoned mine is worked in this manner.

By the CHAIRMAN:

Q. That is, if it is worked at all?—A. Yes, sir.

By Mr. FOSTER:

Q. Did you visit Tayoltita during your residence at San Dimas? If so, state about when you made your first visit.—A. I visited Tayoltita to inspect this mill and see what portions were available.

Q. "This mill." What do you mean by that?—A. The Tayoltita mill.

Q. The one owned by La Abra Company?—A. By La Abra Company; yes, sir. The judge declined to give me permission to take these pieces.

Q. What condition did you find the mill and the works at the hacienda in?—A. Going to decay and scattered about; rusting.

Q. About when did you make the visit?—A. Oh, I visited it a number of times; but this time was in December, 1871. In October, November, and December, 1871, I visited it.

Q. Was any person occupying the mines at the time?—A. Nobody.

Q. I mean occupying the hacienda?—A. Nobody.

Q. Did you know, during your residence in San Dimas, Guadalupe Soto?—A. Yes, sir; I did. He was an old man and kept a little store.

S. Doc. 231, pt 2—45

Q. Where at?—A. In San Dimas.

Q. Did he ever give you any trouble?—A. Never.

Q. Did you know of his creating any trouble in the community?

Mr. KENNEDY. At San Dimas?

By Mr. FOSTER:

Q. At San Dimas.—A. I never did.

Mr. KENNEDY. Well, we never charged him with creating trouble at San Dimas.

By the CHAIRMAN:

Q. Well, did this old man live at Tayoltita during any part of the time that you were acquainted with him?—A. Oh, he went to and fro from San Dimas to Tayoltita. I have seen him in Tayoltita. I have gone to Tayoltita with him.

Mr. KENNEDY. The captain did not go to this country until La Abra Company had left; he was not there for years afterwards.

By the CHAIRMAN:

Q. When you first knew him, was he living in Tayoltita or San Dimas?—A. He was in San Dimas, but he denounced a mine in Tayoltita—a new mine, and I went over to Tayoltita to inspect this mine. They wanted to get me into it.

Q. Was he an alcalde when you knew him?—A. No, sir; he was not.

By Mr. FOSTER:

Q. Had no official position?—A. No; not that I know of. I don't think he was. He kept a store.

Q. Are you acquainted with Francisco Torres?—A. Intimately. He was in my employ in San Dimas for several years.

Q. Have you met him here in Washington?—A. I met him in Washington the other day.

Q. What is his reputation as a miner in that country?—A. He was a miner of repute, and he handled a great deal of bullion for me. All the silver that I accumulated, and gold, he refined for me. In other words, I intrusted him with all the gold and silver; two thirds of what I took out passed through his hands and I never lost one ounce.

Q. I call your attention again to the letter-book, pages 158, 159, 160, 161, 162, 163, and 164, and ask you if you recognize the handwriting?—A. (Examining.) That is James Granger's. Those are his figures and his handwriting.

Q. I call your attention to a letter on page 176, dated 8th of November, 1867, at the hacienda La Abra, and signed James Granger, addressed to D. J. Garth, esq., New York, and ask you if you recognize the hand and whose it is?—A. Yes, and the peculiarity of James Granger when he wrote an English letter and Santiago Granger when he wrote a Spanish letter, because he wrote both equally well.

By Mr. LINES:

Q. When was it you arrived in San Dimas first?—A. In July, 1870.

Q. Did you see Guadaloupe Soto soon after your arrival there?—A. I did.

Q. Was he then living in San Dimas?—A. I saw him in San Dimas. I was a stranger in the place. He had a store there, and I presume that he lived in San Dimas.

Q. Do you know whether at that time he occupied the hacienda of La Abra Company in Tayoltita?

Mr. KENNEDY. Mr. Chairman, I do not see how the witness, judg.

ing by his answer, could possibly know what was happening at Tayolita, when he has just said he was in San Dimas at that very time.

Mr. LINES. Well, if he don't know, I suppose he will say so.

The WITNESS. I don't know.

By Mr. LINES:

Q. Where is Mr. Henry Janin, is he alive?—A. I think he is traveling in Europe. I want to find him very much.

By the CHAIRMAN:

Q. I would like you, if you please, to just give a brief statement of what parts of the country you have been employed in; what you have been doing since you left Durango.—A. When I came back from Mexico I came back on crutches from an accident.

Q. From Durango, do you mean?—A. I came back to California.

Q. From Durango.—A. From San Dimas, and as soon as I was well enough to walk I went up to Virginia City and there staid a while. General Rosecrans sent for me and I went to Egan Cañon, and was his superintendent for a couple of years, running his mill for him, doing all his assaying, melting bullion, and keeping his books.

Q. Then afterwards?—A. Then I put up a mill in White Pine County, a twenty-stamp mill. Then I went to Bodie County.

Q. Will you give the dates as near as you can?—A. I could not remember.

Q. As near as you can as you go along.—A. Then I was sent to the Bouanza refinery at the corner of Brannan and Seventh, where I wrote that letter to Mr. Lines. I was there as chief engineer at that time, where I handled five millions a month.

Q. About how long did you stay there?—A. I was there a year. The work was so hard I could not stand it and went down and ran a twenty-stamp mill in Mojave County, Ariz. I was there about a year and then I bought a mine in Lander County, and I have been there since, in Lander County, Nev., working mines.

Q. That is your present residence?—A. That is my present residence; yes, sir.

By Mr. FOSTER:

Q. You have referred to your being the author of a book on Mexican mines?—A. Yes.

Q. What was the title of the book?—A. "Historic Mines of Mexico."

Q. This is the book which I hold in my hand?—A. Yes.

Q. When did you prepare that book?—A. I have always kept carefully a mining diary, and as I got information about mines I placed it down, tabulated it, and kept it. During the five years I was in Mexico I did that, and finally I got such a mass of data I put it into shape. It took me some four years, and in 1883 I published it.

The CHAIRMAN. It is agreed by counsel that if Alex. S. Gillespie were present and under oath, he would make the statement in regard to the conversation with A. B. Elder, which is contained in the following letter, and the presence of Gillespie is by agreement dispensed with.

The letter is as follows:

OAKLAND, CAL., January 19, 1889.

To the honorable Chairman Committee on Foreign Relations, Washington, D. C.:

To-day while crossing the bay here on ferry-boat I met a man who said he had been subpoenaed to Washington City to testify in reference to some old claim between American capitalists and the Mexican Government; that he was an assayer of minerals, etc., and the claim was about some mines in Mexico, and stated further that the

Mexican Government had promised him \$50,000 if he would give evidence favorable to them; he also said that unless the other party gave him more money that he would likely give the kind of evidence required. He lives at San José, Cal., and will be in Washington about January 26. He is paying his own expenses to Washington for the present, and expects to have a private interview with Señor Romero, the Mexican minister, as soon as he arrives in Washington. Perhaps this may be of service to your committee, as he said both sides subpoenaed him.

Hon. G. R. Tingle (chief seal island agent, Alaska), at present in Washington, D. C., knows me and you can refer to him about trustworthiness.

Respectfully,

ALEX. S. GILLESPIE,
752 Brush street, Oakland, Cal.

Mr. KENNEDY. Now, will counsel agree that we can take depositions in California, where Gillespie is well known, as to his reputation for truth and veracity?

The CHAIRMAN. His reputation was not impeached in any way.

Mr. KENNEDY. It leaves it open, I think.

The CHAIRMAN. No, I could not permit you to go into that unless there was an effort made to impeach him.

Mr. KENNEDY. As long as it is left an open question there is to be no doubt as to his truth and veracity.

The CHAIRMAN. That is assumed in regard to him and Elder both.

Mr. KENNEDY. That is right. That covers that point.

The committee adjourned until February 8.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 8, 1889.

The committee met pursuant to call. Present: Senator Morgan (chairman); Hon. John W. Foster and Mr. Robert B. Lines, of counsel for the Government of Mexico, and Hon. J. M. Wilson, of counsel for La Abra Silver Mining Company.

CHARLES B. DAHLGREN—Examination continued.

The CHAIRMAN. Colonel Foster, have you anything else on the direct?

Mr. FOSTER. Yes; I understand the original deposition of Mr. Dahlgren has been brought from the Department of State, and I ask that it be presented.

(The deposition was handed to the chairman by an officer of the State Department.)

The CHAIRMAN. This was called for by the counsel of the claimant, the La Abra Mining Company. Do you wish to examine the messenger at all?

Mr. WILSON. Not at all.

The CHAIRMAN. This is, then, the original paper?

Mr. FOSTER. I want to ask the witness if that is his signature?

A. (Examining.) That is my signature.

Q. What was the condition of that paper when you placed your signature upon it?—A. It was a blank sheet.

By the CHAIRMAN:

Q. It was a blank sheet?—A. That is, I only put my signature on a blank sheet of paper.

Q. Was that side blank too?—A. That was blank too.

Mr. FOSTER. I want now, Mr. Chairman, to ask the witness who claimed to be in charge of the hacienda formerly occupied by La Abra Company at Tayoltita upon his arrival at San Dimas.

The CHAIRMAN. When was that?

The WITNESS. 1870.

Mr. FOSTER. He has always fixed the time about July, 1870.

A. James Granger.

Q. What control did he exercise over the property?—A. All transactions that I had with that hacienda were through him.

Q. State whether or not he offered to dispose of any of the property at the hacienda to you.—A. Have you a copy of my deposition?

Q. Yes.—A. He told me that if the judge would not allow me to take the machinery it would be all right; he would allow me, and, under that promise, I took the machinery.

Q. Now, Mr. Chairman, I want to renew a question which I presented at the last session, and which I did not press, for the reason that I did not have at hand the references which I now desire to make.

The CHAIRMAN. What is the question?

Mr. FOSTER. I wish to direct your attention to that. I stated, Mr. Chairman—

Mr. WILSON. What page?

Mr. FOSTER. Page 681 of the testimony:

Mr. FOSTER. Mr. Chairman, will you allow me to ask the witness to give any statements of Granger's relating to his operations, what he did at Tayoltita after Exall turned over the affairs of the company to him and he remained in charge?

The CHAIRMAN. If he was then in charge at the time he made the declaration, yes. If not, no.

Then Mr. Lines read that letter from Exall leaving Granger in charge, which you remember. I will not repeat it. The chairman said:

I believe that Exall was the agent of that company. That is my conviction on the testimony. There is a good deal of testimony on that subject, and my conviction is a fixed one that he left Granger there as the agent of that company, and it was legally done. Now, anything he said or did while he was there in that capacity is competent evidence.

Now, Mr. Chairman, I refer first—

Mr. WILSON. What page?

Mr. FOSTER. Three hundred and seventeen. First to the letter of Exall to Granger, leaving him in charge, which has heretofore been read and with which you are familiar. Now I refer to the letter of Granger to the tax collector, on page 318, dated Tayoltita, August 12, 1868:

TAYOLTITA, August 12, 1868.

Señor Don REMIGIO ROCHA:

DEAR SIR: I have received the communication calling upon this company to pay \$52.50 each month for taxes imposed by the legislature of the State, and presume it to be correct; but as I am only acting in the absence of the superintendent, and as there is no money nor effects to pay this tax, I beg you to wait until the month of November, at which time said superintendent is to come, and then the sums due by this company on account of this tax will be paid.

Your most humble servant,

SANTIAGO GRANGER.

I call your attention to the date, August 12, 1868. Now, there follow the letters which Exall wrote to Granger, first from Mazatlan, then from San Francisco, and then from New York and Richmond, beginning with the date March 15, 1868, and continuing through to July, 1868. These

letters were sent by Exall to Granger, and I will show that these letters were received by Granger, and I will, in a moment, give you the history of them.

I now refer you to Granger's deposition, given on behalf of the claimants, on page 353. This deposition is dated the 14th of May, 1870, more than two years after the abandonment of the mines by the company. I read, on page 353, the last paragraph:

A letter was received by Colonel de Lagnel, superintendent of said company, from Colonel Valdespino, of the republican army of Mexico, dated July 27, 1866, and signed "Jesus Valdespino," which came into my possession as clerk of the company, and which letter has never, since its receipt, passed out of my possession; and I now present the same to the consul, marked "Exhibit Z."

Further, question number seven, the same deposition, page 355:

Question number seven. (Consul Sisson hands to witness the order, purporting to be from the jefe politico of San Dimas, dated July 10th, 1867, and marked "Exhibit X," the seal of the consulate attached.) In whose handwriting is this paper, and signature to the same?

Ans. It is the handwriting, body and signature, of Marcos Mora, who was jefe politico of the district of San Dimas at the time that order was given. I remember the order very well, as I received it as clerk of the company, and after showing it to the superintendent, Mr. Exall, I filed it away with some other papers of the kind, and subsequently turned it over, together with two or three others from Judge Guadalupe Soto, to the attorney of said La Abra Company.

Now I read from Ex. Doc. 274, on page 276, an extract from a letter from Mr. Romero, the Mexican minister, to Secretary Bayard, giving an account of the manner in which the Mexican Government became possessed of the letter-book and the letters of Exall:

Upon inquiry of my Government, the secretary of foreign relations has informed me that James Granger, the former clerk of La Abra Silver Minning (Mining) Company, was placed in charge of its property, books, and papers, by its superintendent, Charles H. Exall, at the time the latter left the mines in February, or March, 1868.

Granger having remained in possession of the books and papers for some time thereafter, and La Abra Mining Company having failed to pay him his salary or discharge the debt which he claimed the company owed him, he voluntarily offered to deliver to the Mexican Government certain original documents which he asserted established the falsity of the claim of said mining company against Mexico, and in compliance with his offer the said Granger did, in December, 1877, deliver to the Mexican Government the letter-press copy-book of La Abra Silver Mining Company, certain original letters of Charles H. Exall, and other papers, which constitute the documents subsequently submitted to the Department of State, and of which copies were sent through your Department to the Senate of the United States.

I read now from page 426 of the testimony before the commission. On the 9th of October, 1871, Granger was called before the judge at San Dimas, and his deposition was taken, and upon that examination he produced the following letter, page 427:

I, Santiago Granger, a native of England, and a resident of this place, present myself before you and say, that I have disposed of the articles hereinafter specified, property of the Abra Mining Company, in the district of Tayoltita, in order that you may be pleased to appoint assessors to place a valuation upon them, so that at any time when the company shall call on me, I may be able to deduct the amount of their value from what said company owe me. They are as follows: 1 counter for store, 1 range of shelves, 3 large doors, 5 arrobas of iron.

(Signed.)

SANTIAGO GRANGER.

SAN DIMAS, June 4, 1871.

I also direct attention to two depositions, first, on page 425, that of Julian Romero, taken September 26, 1871, in which he testifies that—

D. Santiago Granger, the last person who had charge of the works, took away the doors and iron window gratings, and sold some of the effects and tools, for which the company can not complain of the Mexicans, but rather of their own employees whom they have had in charge of their business.

Also, on page 427, the deposition of Ygnacio Manjarres, who, as the record shows, was one of the owners of the mine from whom La Abra Company purchased. His deposition, taken on the 9th of October, 1871, states:

That the suburban building that they erected has been destroyed by the last superintendent who remained in charge, viz, D. Santiago Granger, he having taken therefrom the doors, iron window gratings, and other things, and brought them to San Dimas.

I cite these two depositions, and add that there are a number of others to the same effect. I read now from the testimony of Francisco Torres, taken before this committee, page 512:

Q. Does he know who remained in charge of the hacienda after this last visit?

That is a visit made before Exall left, and then he states he made a second visit after Exall had left. It is on that point:

Q. Does he know who remained in charge of the hacienda after this last visit?—A. Don Santiago Granger remained at the head of the business until the end.

Q. What does he know of Granger's operations, or what disposition did Granger make of the property of the company?—A. He sold some things, as salt, quicksilver, and tools, and one wheel of the machinery was taken out and sold to Don Carlos Dahlgren, and tools were sold to Don Juan Cuevas.

Q. To whom was this salt, quicksilver, and other articles he mentions sold?—A. To Mr. Rice, superintendent of the Durango Mining Company, and to some other miners—people of El Baluarte.

Q. To any other owners of mines or workers of mines in that neighborhood?—A. He does not know exactly whether there were any others. He says that whenever opportunity offered a sale was made, but that he did not know particularly the names of the purchasers.

Q. By whom were these sales made?—A. Don Santiago Granger.

Q. Now, is he sure that Granger sold Dalghren this wheel, or whether Dalghren took it after Granger had left?—A. He is sure that the wheel was sold to Dalghren by Granger because he was in close relation with Granger.

Q. How long did Granger remain in the hacienda after the company left?—A. He says that he remained there three or four years after the company disappeared.

The CHAIRMAN. In the hacienda?

Mr. FOSTER. The first answer I read will make that clear to you.

Does he know who remained in charge of the hacienda after this last visit?

And then these other questions follow:

Q. How long did Granger remain in the hacienda after the company left?—A. He says that he remained there three or four years after the company disappeared.

I have not read the letters from Exall to Granger, furnished to Mexico by Granger, taking it for granted that you are familiar with them. In those letters you will remember that Exall gives Granger direction to sell off enough to pay his expenses while he is maintaining himself in the hacienda.

Now, I have made these citations, Mr. Chairman, for the purpose of showing you, first, that Granger was left in possession of the hacienda by Exall, and which you have recognized as a legal act on his part. I show that Granger, months after that time, was in peaceable possession and acting for the company, intervening to prevent the tax-collector from embarrassing the interests of the company by his levy. These letters of Exall to Granger show the relations existing between Exall and Granger and what Granger's duties were at the hacienda. He was left in charge and to protect the property. This original letter of Valdespino, which is produced two years after, shows that Granger was in possession of the papers and records of the company for all that time. He says that this document has not passed out of his possession, and

that is confirmed by the exhibits of the judges, Moro and Soto, which he has delivered to General Adams, who was sent out from New York as the representative of the company. In 1871 Granger is still acting for the company, and intervenes with the judge by sending a communication to him representing that he has taken certain property from the hacienda. The depositions of witnesses—quite a number of them—I have only cited two—show that he was left in charge and remained in charge. Torres has testified somewhat in detail as to the disposition which he made of the company's property, and that he remained in the hacienda for three or four years.

Now, we have shown by Captain Dahlgren this morning that he was still exercising control of and possession of the property at the time he arrived and subsequently. It is true that he was then in the employ of Captain Dahlgren; but he was still, so far as it was possible for him to be, representing La Abra Company in seeking to control the disposition of its property. La Abra Company was bankrupt. It was impossible for it to meet its obligations to him by paying him a salary. He could not derive sufficient means of support for himself during all these years by disposing of property that was unsalable, and he was forced to seek some other employment to maintain himself. And yet we insist that from the time that Exall left up to the time that he was in the employ of Captain Dahlgren he remained as the representative of the company; remained there to protect, as far as it was possible, consistent with his own demands, the interests and property of the company.

Now, we claim that it is proper for us to ask Captain Dahlgren to state any conversation that he had with Granger relating to the business of the company at this time.

The CHAIRMAN. Now, General Foster, whatever may have been Granger's relation to this company, and whatever its misfortunes may have been, evidently he had taken a different attitude towards the company from that of being its representative for the purpose of conducting its business. Mr. Granger, at the time he was in Captain Dahlgren's employment, was engaged, like, it appears, a good many others were, really in wrecking the company, and I do not think there can be any presumption of law in favor of the continuance of his authority to represent that company after he had assumed this attitude towards it. Therefore I exclude this question.

Mr. FOSTER. We have no further questions to ask the witness.

Mr. WILSON. Mr. chairman, you will appreciate that I am in a little embarrassing position this morning, because it has been impossible for me to attend these meetings that have recently been held. Mr. Kennedy is sick and unable to be here, and therefore, if in cross-examination I shall get outside of the proper lines, or apparently be repeating what is already perfectly familiar to the committee, why it will be simply because of my want of information as to the present situation, and of course you will check me if I go further than I should.

Q. When did you first go to Mexico?—A. In July, 1870.

Q. What was your age at that time?—A. I was born in 1839, so that I was in my thirty-second year.

Q. What had been your occupation prior to your going to Mexico?—A. Mining for five years previous to that.

Q. Where?—A. In the State of Nevada.

Q. In what mine?—A. In White Pine, on the Comstock, in Lincoln and Lander Counties. I had been working in assay offices.

Q. Well, in what capacity were you working in those mines in Ne-

vada?—A. Well, sir, I was running engine, feeding battery, amalgamater, assaying.

Q. How much experience had you had as an amalgamater?—A. Oh, in one mill in White Pine I had worked a thousand tons of ore that had yielded some \$800,000.

Q. What was your first experience as a miner, or in connection with mines?—A. I bought a quarter interest in a mine.

Q. Where was that?—A. Utah.

Q. Did you work it?—A. I did.

Q. How long?—A. I worked it for—well, I don't recollect; under a year.

Q. Were you on the ground yourself?—A. I was.

Q. What duties were you performing in connection with it?—A. I was running the business.

Q. Well, in what respect were you running the business?—A. I had charge of it; I hired my men and I told them what to do.

Q. Did you handle the ores yourself?—A. Yes—not handled the ores—I handled assays and saw that the books were kept right, and such things as that.

Q. Did you make any assays while you were there?—A. No, sir; I did not know how to assay then; I then started in to learn it.

Q. Well, you made no assays there; you simply commenced to learn the business of assaying?—A. Yes.

Q. Now, what was your next experience after that?—A. I include in that experience in Utah, my experience in Little Cottonwood and in Lincoln County.

Q. And that extended how long?—A. Of course, there were three properties, I—

Q. Yes, but you were not present at all these properties all the time?—A. I went from one to the other; staid two or three months at one and then would go to the other.

Q. You were the business manager?—A. Yes.

Q. That extended there to a period of a year, as I understand. Now, what was your next experience and where?—A. I lost all my money and then went to work for wages.

Q. Where?—A. First in Austin, then in White Pine.

Q. Austin, what do you mean?—A. Austin, Nev., a large, prosperous mining camp.

Q. What did you go to work at there?—A. I went to work roasting ores at the furnace and learning assaying.

Q. And how long did that continue?—A. I don't recollect how long exactly, whether it was a year or what not, but more than six months were devoted to assaying.

Q. With whom did you learn assaying then, or study assaying?—A. With Mr. Lundbon who kept an assay office.

Q. How much of your time did you spend at assaying?—A. All that six months.

Q. What were the processes used in assaying?—A. We first built the fires, pounded up the rock, sieved it, weighed out the proportions, mixed the fluxes, put them into a furnace and brought them down melted, ored them, cupelled them, and then weighed them in the scales, separating the gold from the silver by means of acid.

A. Were those free or refractory ores?—A. It was a custom office and we had everything from lead ores, from smelting ores to copper ores, gold ores and silver and mixed ores, and it amounted to probably sometimes as high as fifty to sixty assays a day of all kinds.

Q. Where was your next experience?—A. Then the excitement at White Pine broke out, the great excitement—

Q. I do not care anything about the excitement, I simply want to know your next experience.—A. Well, I say White Pine. I went over there.

Q. What did you do there?—A. I went to work in the mines.

Q. In what way?—A. Took up a claim and went to work with the drills and picks.

Q. Is that placer or quartz mining?—A. No, sir; it was chloride of silver ore.

Q. How long did you remain there?—A. I think about two years.

Q. Did you do any assaying there?—A. I did.

Q. Just state to what extent, whether you were simply assaying your own ores?—A. I was put in in charge of a mill known as the Monte Cristo mill, as receiver. There had been a suit between the company and prospectors, and I was put in as receiver and I ran that mill on custom ore.

Q. What are the duties of a receiver?—A. I had charge of the whole business and had to account for the proceeds to the court.

Q. You received the ores?—A. I bought ores; I rode over the hill and bought ores on custom; made contracts on ores.

Q. You said a moment ago you were receiver?—A. Well, that is the legal position. I could not let the mill stand idle.

Q. I don't care about that.—A. I do care about it.

Q. Just simply answer the question.—A. Well, I rode over the hill and bought ores to keep the mill running.

Q. Did you do anything yourself there?—A. Yes.

Q. What?—A. I saw that they were worked up properly.

Q. What do you mean by "worked up"?—A. I guarantied $87\frac{1}{2}$ per cent. of the assay. If the ore went \$100 a ton it is the custom in that country to guaranty $87\frac{1}{2}$ per cent.

A. You see that is not a response to my question.—A. Well, I don't know what you mean.

Q. Well, I did not ask you about a guaranty.—A. Well, I told you $87\frac{1}{2}$ per cent. was the return I had to work it up to.

Q. Just a moment; we will save a great deal of time if you just notice my question.—A. Well, if the stenographer will read the question.

The stenographer read the question as follows:

Q. What do you mean by worked up?

A. By crushing it, roasting it, and amalgamating it.

Q. Now, did you do that yourself, or did you see that somebody else did it?—A. I had my men to do it, but I had to superintend it and see that they did it right.

Q. So that you were watching over other people while you were doing this work. How long did that experience you say last?—A. I think a couple of years.

Q. What was your next experience?—A. During this time at intervals I had been down to the Comstock Grass Valley, California, to learn the process of leaching ores.

Q. Well, how long did you spend down there in that business?—A. In that business and amalgamating on the Comstock I spent over six months.

By Mr. FOSTER:

Q. I understand that was embraced in that time?—A. That was in the intervals that I went down to study.

By Mr. WILSON:

Q. That is, while you were receiver at these other mines?—A. No; that was in the intervals when I was in Lander County and Lincoln County, and in White Pine.

Q. Now give us your next experience.—A. Then I was called to Mexico.

Q. That brought you up to the time you went to Mexico. Now, under whose auspices did you go to Mexico?—A. I went under the auspices of the Durango Mining Company.

Q. I think it is already in the record, but will you state in that connection how far the Durango Mining Company is from La Abra?—A. I should judge it to be ten or twelve miles.

Q. What are the means of communication there?—A. Either by walking or riding.

By the CHAIRMAN:

Q. Do you mean on the back of a mule?—A. Yes; or horse.

By Mr. WILSON:

Q. State whether there was an intervening mountain.—A. Yes; there was a mountain to go over.

Q. And was it difficult?—A. No, sir; a good road.

Q. Now, what year did you arrive at San Dimas, and at what time in the year?—A. I said in July, 1870.

Q. At that time, if I understand you, La Abra Company had disappeared. Is that correct?—A. La Abra Company—what do you mean by company—the individuals composing it?

Q. I mean that the company had ceased to be operating that time, had it not?—A. Yes, they had; that is as far as I know. I did not know that they were at work. I knew that they had smashed up.

By the CHAIRMAN:

Q. At the time you got there?—A. Yes.

By Mr. WILSON:

Q. The company as a company was gone when you got there?

By the CHAIRMAN:

Q. The operations of the company as a company?—A. At first I did not know there was any company when I got there. It was not for some time afterwards that I knew it.

By Mr. WILSON:

Q. When did you first learn that there had been such a company there?—A. I learned it by hearing men talking about Exall, and I asked who Exall was. I heard them talking about De Lagnel, a colonel in the Confederate army, and then I inquired about him.

Q. How many times did you go over to La Abra mines?—A. Many times.

Q. When did you first go there?—A. I could not state the day; I don't know.

Q. Well, I did not expect the day. But how long after you got there was it before you went over?—A. Well, I might have been there six months before I went over.

Q. You have testified, I think, that you reduced ores that came from La Abra mines?—A. I did; well, I don't say La Abra mines; from Tayoltita; from those mines over there.

Q. Well, were there any mines at Tayoltita other than La Abra mines?—A. Oh, yes; fifteen or twenty; may be thirty mines.

Q. Well, do you wish to be understood as saying that you reduced ores that came from La Abra mines?—A. No; I wish to say that I reduced ores that came from Tayoltita and from different mines over there. Some of them might have been from La Abra.

Q. Will you tell us now all the mines other than La Abra mines there were at Tayoltita?—A. No, I could not; there are too many of them.

Q. Can you give us the names of some of them?—A. I mention all of them in my book, but I have not them in memory.

Mr. FOSTER. Probably I had better get that book; we may have occasion to use it.

By Mr. WILSON:

Q. Can not you give us the name of any one mine now?—A. No, sir; not from memory; because if I carried the names of all the mines in my mind I would be——

Q. Well, can you mention the name of one?—A. Well, the largest mine over there by reputation was La Abra.

Q. Very well. Now, you say there were a good many mines there other than La Abra mine?—A. Yes, sir.

Q. Now name one.—A. Well, La Abra, Rosario. I don't know whether La Luz was one of their mines or not.

Q. Well, name the others.—A. There was the Cristo, the Reliz, and the Arrayan.

Q. Well, any others?—A. No; I do not recollect any others.

Q. Those are all you can name? There were a great many other mines in that district?—A. Yes; other mines in that district.

Q. Could you give us about how many?—A. No, sir; I could not.

Q. Well, do you think there were twenty?—A. Oh, yes; twenty-five.

By the CHAIRMAN:

Q. Do you mean other mines held by other parties?—A. Yes.

By Mr. WILSON:

Q. There were a good many held by other parties than La Abra Company?—A. Yes.

By the CHAIRMAN:

Q. Were they Americans?—A. No; they were Mexicans. Well, there were some Germans that took up some of the mines after La Abra Company left.

Q. That was a mining district there, where there were some from Germany and some Americans and some from Mexico?—A. Yes.

By Mr. WILSON:

Q. Now, here was a mining district in which there were a great number of mines, and, if I understand you, you say that in 1871, 1872, 1873, and 1874 you reduced ores that came from those?—A. Yes.

Q. And now, if I properly understand you, you do not know what mines the ores you reduced came from?—A. No; I do not. I can get all of them possibly and what mines they came from and the amounts. I can give you all that data if I can get hold of Dr. Storch.

Q. Well, I am not talking about what you can do.—A. Well, I say I do not keep those things in my mind for twenty years.

Q. Well——

By the CHAIRMAN:

Q. Judge Wilson is asking your present recollection.—A. Well, I make this statement.

Q. Only the general result?—A. I do not know the number of pounds to a pound.

By Mr. WILSON:

Q. If you will pardon me, captain, you see you get away from my question. I understand you now to say that you reduced in 1871, 1872, 1873, and 1874 ores, and some that came from this Tayoltita district?—A. Yes.

Q. And you have given results of those reductions of those ores. Am I correct in that?—A. I do not think that I gave any assays of those—the amount.

Q. Very well, then; what is it you have been testifying to here on that subject?—A. For instance, I bought hundreds and thousands of tons of ores from a firm in that district, but did not belong to La Abra Company and never did. They were not connected with that company at all.

Q. I understand; but I understand you to say that in 1871, 1872, 1873, and 1874 you reduced ores that came from that district.—A. Yes, sir.

Q. And you have given the result of those reductions. Now I want you to state to the committee whether you know from what mines those ores that you reduced came. Never mind your testimony; just answer my question.—A. Yes, I notice your question, and do not want to make one statement—

Q. Well, I prefer to have your cross-examination.

By the CHAIRMAN:

Q. He wants your recollection, captain.

By Mr. WILSON:

Q. I want your recollection.—A. I never testified as to the value of those ores, but simply said they came in small quantities, 25 pounds or 50 pounds.

Q. You fail to see the point of the question all the time. I am asking you to state whether you can tell from what mine those ores that you reduced came?

By the CHAIRMAN:

Q. What particular openings in the district of Tayoltita?

By Mr. WILSON:

Q. Do you know?—A. Yes; some of them came from Arrayan—one that I remember particularly—Arrayan, because Calderoon brought them over.

Q. Well, never mind. We will come to that in a minute. Don't give any reason now.—A. Some came from Arrayan.

Q. Well, from what other mines can you say they came, that you reduced ores or made assays of?

Mr. LINES. Do you mean the same thing by reduction as by making assays?

Mr. WILSON. Well, he is talking about assays.

The WITNESS. Those ores on the dump, and which were said to have come from La Abra mine, those I did take some from to test.

By Mr. WILSON:

Q. Well, do not say what is to come.—A. I say, I took all those ores on the dump and the patio of the hacienda and tested them thoroughly.

By the CHAIRMAN:

Q. What hacienda?—A. Tayoltita of La Abra Company.

By Mr. WILSON:

Q. Now, we will come to that in a moment. I want his answer to this question which I have repeated two or three times.—A. Yes, you asked me if I tested ores in 1872, 1873, 1874 from the hacienda at Tayoltita, and I have stated that some came from Arrayan and that some came from El Cristo.

Q. Now, you say that some of them came from these mines you mention?—A. Yes.

Q. Now, will you tell us how you know they came from those mines?

By the CHAIRMAN:

Q. From Arrayan, from La Abra, from El Cristo, or from La Luz, or from any other?—A. From the Arrayan we sampled ores.

By Mr. WILSON:

Q. The question is, How do you know that any of these ores that you assayed or reduced came from these particular mines which were attached to the hacienda at Tayoltita?—A. Oh, I could not. They were lying there on the patio; had been there for years.

Q. Allow me to ask, please, do you know that those ores that you assayed or tested, in any way that you did test them, came from the hacienda at Tayoltita?—A. Yes, I took them from there myself, and I was informed that they came from La Abra Company's mines, and they were in their mill or their yard, lying there.

Q. Did you know from what particular opening in the mountains they came?—A. No, sir; I never saw them at all until I saw them there.

Mr. LINES. He was about to state as to Arrayan.

The WITNESS. The Arrayan mine I did see samples myself, because I accompanied Janin to see that mine. He thought of buying.

By Mr. WILSON:

Q. Thought of buying it from whom?—A. I do not know.

Q. Well, thought of buying it?—A. Well, Mr. Calderoon or Granger, I do not know which.

The CHAIRMAN. Judge, this seems to be a point at which I can interrupt your examination without any trouble to you. This gentleman is here from the State Department with this deposition. I would like to relieve him and send it back, because I am under an obligation to send back this paper, and if you have no objection I will examine the witness myself upon this deposition.

Mr. WILSON. Certainly; I have not the slightest objection, and I can take up my cross-examination afterwards.

By the CHAIRMAN:

Q. Captain, is that your signature to that deposition there?—A. That is my signature; yes.

Q. It is witnessed by H. Dias Peña, you see?—A. Yes.

Q. Do you know Mr. Peña?—A. I saw him during that examination that I had.

Q. He was, as I understand it, the prothonotary or clerk of General Adams?—A. Yes.

Q. In the taking of testimony?—A. Yes.

Q. Is that Mr. Sisson's signature?—A. I recognize Sisson's signature.

Q. That is not the handwriting of the body of the deposition, is it?—A. No, sir; the body of the deposition is not Sisson's handwriting.

Q. But that is his signature, is it not?—A. That is his signature; yes.

Q. You mean by that that the certificate of the consul is not in the handwriting of Mr. Sisson but of Mr. Peña, but the signature to it is in the handwriting of Mr. Sisson, United States consul?—A. Yes, sir; the consul's affix attached to the deposition. Now the body of this deposition consists, as I count it, of eight sheets of paper.

Mr. WILSON. Written on both sides?

The CHAIRMAN. Written on both sides and apparently consecutive, headed—

Rebutting testimony in the matter of the claim of La Abra Silver Mining Company vs. The Republic of Mexico. Deposition of Charles B. Dalghren, on behalf of the claimant, to be submitted in evidence before the joint commission of the United States and Mexico in session, Washington, D. C.—

Do you know whose handwriting that is?—A. No, sir; I do not.

Q. The words I have just read—you do not know whose handwriting they are in?—A. No, sir; I never saw it before.

Q. I notice here, Mr. Dalghren, something that I wish you to explain if you can do it: "Interlined," page 2, lines 16 to 17, the words "a son." "Are you a son of Admiral Dalghren?" Page 2, lines 29 to 30, the word "an." That makes out the word "company." Page 6, lines 17 to 18, the word "the" comes in between "small parts of machinery." The word "the" comes in so it would read "small parts of the machinery." Page 7, lines 5 to 6, the words "the stamp." That seems to explain this sentence:

All of the machinery left there, including the stamp-mill of claimant at Tayoltita.

Page 7, lines 27 to 28, the word "said," which seems to have been used for the purpose of making up this sentence:

Authorizing me to take from Tayoltita such parts of said mining property as my company desires.

Page 9, lines 32 to 33, the word "them" seems to have been used for the purpose of completing this sentence:

I came here with my sick wife and child to get them on board the steamer for New York.

The WITNESS. Does it say "New York?"

The CHAIRMAN. "The steamer for New York."

The WITNESS. I did not say they were going to New York.

The CHAIRMAN. They were going to San Francisco.

Page 11, lines 22 to 23, the word "be." That is included in this sentence:

Much of it partially worn out, or refitted to other machinery, so that it would, in my opinion, be better and cheaper to repurchase a new stamp-mill.

Erased: Page 1, third line from bottom, "bef."

Mr. FOSTER. There is no erasure on the first page.

The CHAIRMAN. Page 4, line 42, "Buena Vista."

Mr. FOSTER. That shows that the paging begins on this next page.

The CHAIRMAN. The sentence as corrected, page 4, would read "and that they came from the claimant's hacienda at Tayoltita," "Buena Vista" being erased. Page 15, line 12, the word "said." The word "said" is erased, stricken out of this sentence—

in writing; and was said property turned over to you with a view to your protecting the same as consul of the United States, for—

That seem to be a repetition merely of the word "said."

Q. Was your attention, Mr. Dahlgren, called to these interlineations and erasures before you signed this deposition?—A. No, sir.

Q. Did you sign this paper in the form in which it now appears, or did you sign a blank sheet of paper over which was written and before which was written the body of this deposition?—A. I never signed that document as it exists. I signed that blank sheet of paper before a mark was on it, and that is the signature, and I have stated in my examination how I came to do that.

Q. Now, let me ask you how it happened that you came to sign that sheet of paper half way up?—A. I do not know that.

Q. Why not at the bottom as well as half-way up the sheet?—A. That never occurred to me. I signed it right there in the middle of the sheet or wherever it is. I do not think I have seen that paper since I put my name on it. I will tell you why I did that. I did so thinking that upon this they could put in the certificate of the consul. I knew that something was to be added to it, and signed it up so as to give them room.

Q. Now, the body of this deposition was, as I understand you, in the handwriting of Mr. H. Diaz Peña, the man who witnessed it. Am I correct about that? Is that Peña's handwriting, or Sisson's, or yours?—A. No, sir; it is not Sisson's; it is not mine.

Q. Is it Peña's?—A. I could not swear to whose it is.

Q. Well, I understand you now to mean to say that this deposition which was submitted to this joint commission, and upon which they acted, was not the deposition as you gave it to Mr. Adams?—A. You are right.

Q. But that you gave a separate paper which he had drawn up, upon which you had made various corrections?—A. Yes.

Q. Well, were those corrections in striking out, or in addition, or both?—A. Many of them were in my handwriting, and some had been erased; others I had interlined. Other words I had scratched out. Others in parenthesis, and in some answers I had drawn my pen through that way [indicating].

Mr. FOSTER. What way; state so it can go on the record.—A. Down.

By the CHAIRMAN:

Q. Across the page or parts of the page?—A. Parts of the page, sometimes extending over 3 or 4 inches.

Q. Now, am I correct in understanding that you deny that this paper now on file in the Department of State, being the paper which was used before this joint commission, was the deposition that you gave before Consul Sisson as a deposition, sworn statement, to be used in evidence on the examination of this case of La Abra Mining Company?—A. That is not the testimony that I gave, nor did I ever see that document before until I saw it a few days ago at the State Department.

Q. Now, you have stated in your examination here that you had received from San Dimas or somewhere—San Dimas, I think—a summons to go back to your hacienda?—A. Yes.

Q. And that they came upon you, as I understand you, unexpectedly?—A. Yes.

Q. That after having drawn up, or at least having been examined, Mr. Pena or Mr. Adams had prepared a statement of what your testimony was that you dissented to?—A. Yes.

Q. And that you had taken that statement and made these various interlineations and erasures?—A. Yes, sir.

Q. And that then you said you could not remain so as to have your deposition drawn out in form?—A. Yes.

Q. But you told Mr. Sisson, who was your associate consul there, you

being for Durango and he being at Mazatlan, that you intrusted the copying out of this deposition to him?—A. These rough notes.

Q. Over your signature?—A. Yes, that is just what I did. Nothing more; nothing less.

Q. Then, as I understand, you repudiate that paper as a proper statement of your testimony?—A. I do.

The CHAIRMAN. Now, Judge Wilson, you can examine him upon that question; upon the identity of the paper and its integrity, etc.

Mr. WILSON. I will do that right now, so as not to detain the gentleman. Then I will take up the other examination at the proper time.

The CHAIRMAN. Before you proceed I will ask him this question: Have you any recollection of the making of those addenda there in the way of interlineation and interpolation of words in the body of the paper that now is presented to you?—A. No sir; it never was done. It is done in the same handwriting of the person who wrote that.

By Mr. WILSON:

Q. When did you first learn that General Adams was taking testimony in this case?—A. When did I first what?

Q. When did you first learn that General Adams was taking testimony in this case?—A. When he rode into my hacienda at San Dimas.

Q. When was that?—A. I have stated in my examination that it was just before the rainy season of 1872, which was before the 24th of June.

Q. How long was he there?—A. I stated that it might have been ten days; it might have been a week or ten days; it might have been two weeks.

Q. He staid in your hacienda, did he, all that time?—A. Yes, all the time he was there.

Q. You saw him daily?—A. Saw him daily.

Q. Talked with him frequently?—A. Yes.

Q. Talked with him about this case?—A. No, sir.

Q. Did not say anything about this case at all?—A. He at times spoke to me, but it was not my business and I did not—

Q. Well, did he talk to you about it?—A. On one day he told me that they had tried to intimidate his witnesses, or words to that effect.

Q. You talked with him about this case, did you?—A. No; I did not.

Q. Did he make any inquiry of you in regard to any facts where witnesses could be found?—A. I said, "General Adams, anything that I can do for you in this matter of taking testimony I will do, and Mr. Granger, who is here, possibly knows all about it." That is all I said.

Q. But that rather presupposes that you and he talked about it.—A. No, I did not talk about it at all.

Q. He did not say anything about what he wanted to do?—A. I was too busy with the mine and mill.

Q. He did not say anything about what he was trying to do?—A. Yes; he said he was trying to collect evidence, as I understood it, or take testimony, or words to that effect.

Q. Where did he take testimony?—A. In my hacienda. I allotted him premises.

By the CHAIRMAN:

Q. As I understand, that was before you met at Mazatlan.—A. Certainly, that was before June 24. It might have been May or it might have been June.

By Mr. WILSON:

Q. Well, he was taking testimony in the case there in your hacienda.—A. Yes.

S. Doc. 231, pt 2—46

Q. You knew that fact, that he was taking testimony there?—A. Yes, by seeing these witnesses summoned and coming before him, and more especially his interview with Granger; that called my attention to it.

Q. Did he eat at your table?—A. He did.

Q. How much time did you spend with him while he was there?—A. In the morning; I could not say. He did not get up until rather late, and I was up early and would ride up to the mines, a couple of miles away. Sometimes I would spend all day in the mines. Sometimes I would get through before midday and go down to the mill, where they were working ore.

Q. Did you spend the evenings with him?—A. No, sir; I did not.

Q. Did you spend any evenings with him while he was there?—A. I did not invite him—

Q. Oh, I did not ask you that.—A. No, I lived in a little house apart from the buildings, and I did not invite him to my house there. I could not have spent evenings with him.

Q. I did not ask you that.—A. Well, that is my answer. I don't recollect spending evenings with him.

Q. Was he in your house while he was there?—A. No, not in my house. My house was a building apart from the other house.

Q. Well, where did you take your meals?—A. We had a large table under a large shed, where the men would eat, that is, my white employes; the men of course would eat in their houses; but I often would go down there and sit, so as to pass some time with the men, and also so as to give instructions as to what some of them should do.

Q. Well, that is where you took your meals regularly, did you?—A. Not regularly.

Q. Frequently?—A. Frequently.

Q. Frequently took meals there with General Adams, did you?—A. Yes; I took meals there with General Adams.

Q. Then you wish it to be understood that, although he was there at your hacienda for a week or two taking testimony in this case, and you were there as the principal man—A. Yes.

Q. That you had no conversation with him about this matter as to which he was taking this testimony? Is that the way you wish to be understood?—A. Yes; except what information he volunteered.

Q. Was he a reticent or a talkative man?—A. He was a very talkative man when he got full.

Q. Well, when he was not full how was he, reticent or talkative?—A. All the time I saw him I think the general was under the influence of liquor.

Q. Well, I have not asked you that.—A. Well, he was full nearly all the time.

Q. Well, I have not asked you anything about that. If you will please observe my question now, you will see it is a very easy one to answer. I ask you whether when he was not "full," as you call it, he was a reticent or a talkative man?—A. I think he was a talkative man when he was not full.

Q. He was a talkative man under all circumstances, wasn't he?—A. Yes.

Q. And so he spent about a week or two there, you seeing him daily, but yet you and he never talked about it?—A. No; I did not fancy the man; so I kept away from him.

Q. Well, I did not ask you that.—A. Well, I stated the reason. I got tired of hearing vulgar talk all the time and so I kept away from him;

and his conversation, nearly all the time he was talking, was a lewd conversation about women and his adventures with women. So I kept away from him.

Q. Well, you had heard him talking that way frequently?—A. All the time.

Q. Then you were all the time—— A. I say all the time I heard that man talk it was in that direction, and so I kept away from him. I have stated why I did not want to hear him talk.

Q. Now, you went over to Mazatlan?—A. Yes.

Q. How did you happen to go over there, did you say?—A. I went to take my family to the port to put them on the steamer to send them to San Francisco.

Q. Where was your family going; where was their destination?—A. Brooklyn.

Q. They were going to Brooklyn?—A. Yes; but they were going to San Francisco first.

Q. Certainly; they would go to Ogden before they would go to Omaha.—A. I was not certain whether they would go or not. It depended entirely on the condition of my wife when she got to San Francisco.

Q. Well, their destination was Brooklyn, was it not?—A. Yes.

Q. And you took them there to put them on the steamer there, their destination being Brooklyn?—A. Yes; San Francisco first.

Q. Certainly, San Francisco. Was there any other route to New York excepting to go through San Francisco that you know of?—A. Yes, you could go to Durango on mule back, a couple of hundred miles.

Q. I am talking from Mazatlan.—A. Yes, Mazatlan.

Q. Well, where would they go from there?—A. You could go by the stage coach through Guaymas; get up there in stage coaches.

Q. To where?—A. You could go to Santa Fé and go across to Saint Louis.

Q. How far would you have to travel by mules and stages?—A. Not as far as they would by going around to San Francisco, of course.

Q. Did you have any serious thought of sending your family in that direction rather than by San Francisco?—A. I don't recollect about that.

Q. When you took them to Mazatlan did you take them there anticipating that you would send them otherwise to New York than by steamer by way of San Francisco?—A. No, sir. I anticipated that my wife would have to remain in San Francisco; that she would not get home in time to be confined. So I said, "Stop in San Francisco if necessary, and remain there." That was the idea.

Q. But if it was not necessary, then they were going to New York?—A. If she could make the journey, or wished to, why then her father was to take her home.

Q. So that her destination was to New York unless she happened to be interrupted at San Francisco?—A. Yes.

Q. That is your answer?—A. Yes.

Q. So that, under those circumstances, you are prepared to swear that you did not say that your family was going to New York, are you?—A. No; I say that is an immaterial point whether they were going to New York or San Francisco. I took them down to Mazatlan. I swore to putting them on the steamer.

Q. Oh, yes; but you have said that you did not testify that they were going to New York?—A. I tell you that they were to go to San Francisco, and, if necessary, to remain there; that is all that I state.

Q. We understand that perfectly; but you have been testifying about what you did and did not say, as reported in that deposition.

A. Oh, that was not a part of my testimony with Adams. My part was simply——

Q. Wait a moment. Don't get nervous about this thing.—A. No, I am not nervous.

Q. You have testified as one of the evidences that this is not your deposition—— A. Yes.

Q. Hold on a minute now—that you did not say that your family was going to New York as recorded in this deposition; that you said your family was going to San Francisco. Now, I want you to say whether, in the light of what you have just stated, you can swear that you did not say that your family was going to New York as it is recorded in this deposition?—A. I have told you that I did not attach any importance. I said they were going to San Francisco. I did not say where else they were going.

Q. I beg your pardon—— A. Well, that is what I say now.

Q. Well, I am not talking about what you are saying.—A. It is an immaterial question.

By the CHAIRMAN:

Q. No, it is not immaterial. It is what you said then. Did you say to that man who took down your deposition that your family were going to New York or going to San Francisco?—A. Well, after an interval of eighteen years about, I don't know what I did say, only that I was going to send them to San Francisco first.

The CHAIRMAN. Well, that ought to be satisfactory.

By Mr. WILSON:

Q. No, one moment further. You have sworn here before the committee, and pointed out as one of the evidences that this deposition is not correct, that they recorded it here that you said that your family was going to New York.—A. Well, I did say San Francisco to General Adams.

Q. Now you swear to that?—A. Yes I swear to that now.

Mr. FOSTER. Let me inquire where is the testimony in which the witness stated that his family were going to San Francisco and not New York?

Mr. WILSON. He said it this morning.

The CHAIRMAN. I remember the witness, as I was reading that part of the deposition, interposed and said, "I did not say they were going to New York," and said they were going to San Francisco, but that was not called to his attention as material.

Mr. FOSTER. Oh, of course you can not trip up a witness by such things as that.

Mr. WILSON. I am not trying to trip up anybody.

The WITNESS. Well, I told him I was going to put my family on the steamer to send them to San Francisco. That is what I told him.

By Mr. WILSON:

Q. Now, will you explain how you are able to remember, after an interval of eighteen years, that particular thing when you knew you were sending your family to New York?—A. I have said to many people that I was going to send them home. I did not send them to New York; I sent them to Brooklyn. If you come down to technicalities, splitting hairs, I did not send them to New York, and I never said New York, under any conditions. If I said anything it was Brooklyn.

Q. Very well; now I am satisfied with that, if you are.—A. But I stated distinctly that that steamer was going from Mazatlan to San Francisco. She was not going to New York, and there was a steamer that did go round to New York.

By Mr. FOSTER:

Q. To Panama, was it not?—A. Yes.

By Mr. LINES:

Q. From Mazatlan?—A. From Mazatlan to New York.

Q. Was not that the nearest way to send your family to New York?—A. No, sir; it would be too far.

The CHAIRMAN. Now, let us get at the balance of this.

Mr. WILSON. Well, I will get through with this and then I will take him up on the printed testimony.

Q. Mr. Dahlgren, here is a deposition covering fifteen and a half pages. The last thirteen lines of this deposition consist of a statement of the words that are interlined on the page mentioned and the words that are erased on the pages mentioned as repeated to you by Senator Morgan a few minutes ago, and immediately following that are these words:

The above corrections were noted before signing, with the consent of deponent and in the presence of the subscribing witnesses.

A. It don't say witnesses. It says it is signed there; one man witnessed it.

Q. Well, I think I can read; I am reading it exactly as it is, "and in the presence of the subscribing witnesses." That is the way it is written. The word "witnesses" is nearly the middle of the line and on the next line below and right within half or three-quarters of an inch of the last letter of the word "witnesses" your name is signed.—A. Yes; that is my name, I know.

Q. And you say that is your signature?—A. Yes; I do.

Q. And that is witnessed by—A. By one man; the man who wrote the document.

Q. I suppose you don't pretend to be able—I have described that correctly have I? Look at it.—A. Yes; I have looked at it. What was your question?

Q. I suppose you are unable to explain how so long a document as that could have been written with these lines that I have just referred to and make it come out just as it does come out here, with your signature being at the proper place?—A. Yes.

Q. That you say would be the proper place for your signature?—A. Well, there it is. Finish your question.

Q. You think that is the proper place?—A. Go on and finish your question. Anything would be possible to a penman.

Q. I want to know whether that is the proper place. You are a business man?—A. Yes.

The CHAIRMAN. I will state, as a member of the committee, that I think that is the proper place.

Mr. FOSTER. I suppose other immaterial interpolations could have been added—immaterial interpolations to run this out.

The WITNESS. Mr. Wilson was going to ask a question.

By Mr. WILSON:

Q. Then I will ask him if he has any way of accounting for so long a document being written out, and just in the way that this appears, so as to make it come out just at the appropriate place for his signature. Have you any explanation to give of that?—A. Yes I have.

The CHAIRMAN. Wait a moment. I do not think that the witness is either called upon or is competent to state an answer to that question. That is a question that must be for the determination of the committee themselves.

Mr. LINES. We would like to have it asked, Mr. Chairman.

Mr. WILSON. I am inclined to think myself, that the question is not a very proper one. I will not insist upon it.

Q. When do you say you were sworn to this paper; were you sworn at all?

Mr. LINES. To this paper?

The WITNESS. I never was sworn to that.

By Mr. WILSON:

Q. Well—

By the CHAIRMAN:

Q. Judge Wilson's question was, were you sworn?

By Mr. WILSON:

Q. Were you sworn on that examination?

By the CHAIRMAN:

Q. Was an oath administered to you?—A. No; that was administered to me at the beginning.

Q. Well, was there at the end?—A. I have stated in my examination that when I signed that paper and handed it to Sisson, he said: "Is this the truth, the whole truth, and nothing but the truth," holding that blank piece of paper in his hand which I had requested him to transcribe.

By the CHAIRMAN:

Q. Then that was after you had made your statement?—A. Yes.

Q. And after it had been drawn up by Mr. Peña, and after you had also made the erasures and interlineations that you thought were necessary to make a correct statement of what you had already informed the examiner of.

Mr. FOSTER. But he added, after he had obtained the promise from Sisson that he would copy it all.

The WITNESS. Well, my reply to the Senator is this—

By the CHAIRMAN:

Q. That is right; that is what I have understood about it; but if I understand you, Mr. Dahlgren, you were not sworn to the contents of the particular paper that is now before you?—A. Never; never saw it before, except the signature.

By Mr. WILSON:

Q. The certificate of the consul states among other things—

That Charles B. Dahlgren, the witness herein, personally appeared before me, at my consular office in Mazatlan, State of Sinaloa, Mexico, on the day and at the time hereinbefore stated, and that he was by me first duly sworn, as a witness on behalf of claimant, to state the truth in answer to said interrogatories, propounded by me, touching the merits of the above-entitled cause, as hereinbefore set forth, and was thereafter duly examined, and that the foregoing testimony was given by him, and thereupon reduced to writing by H. Diaz Peña, in my presence.

I understand you to say that that is not true?—A. That is false.

Q. You say that is false?—A. From beginning to end. He never asked me one question in this thing, nor was he present to hear an answer, except, as I have stated, to come in to attend to his consular duties.

By the CHAIRMAN:

Q. You mean Sisson?—A. Sisson.

By Mr. WILSON:

Q. You say it is false from beginning to end?—A. Yes; that statement that he asked me questions and was present during the examination.

Q. Well, he states in addition to that "was by me first duly sworn?"—A. I include that in the statement. I was not sworn until the examination was over and I handed to him that blank sheet of paper. Then he said, "Is this the truth, the whole truth, and nothing but the truth?"

Q. And that is your statement now in regard to it?—A. That is. That is my statement. That is the only swearing that was done in the matter.

Q. Now, sir, did you—A. And that is in the writing of the person who wrote the main body of it.

By the CHAIRMAN:

Q. In the handwriting, you mean?—A. Yes; the same handwriting.

By Mr. WILSON:

Q. Certainly, and signed by Sisson?—A. And signed by Sisson; yes.

Q. Have you witnessed any other depositions that were taken in this case?—A. I don't know; I don't recollect.

Q. When Adams was taking depositions up at your hacienda did you witness the signatures to any of the parties to the depositions?—A. I don't recollect.

Q. You can not remember that?—A. No, sir; I might have done it.

Q. Were you present at a time when any of the depositions were taken up there?—A. No, sir; only when I heard the altercation between Granger and Adams and came in to stop the trouble.

Q. That is the only time you were present while the depositions were being taken, was it?—A. I don't recollect of attending any of them for the purpose of listening to the testimony or any thing of the sort.

By the CHAIRMAN:

Q. Mr. Dahlgren, let me inquire, if you please, was the altercation of which you speak before you gave your statement at Mazatlan?—A. Yes.

Q. While Adams was visiting your hacienda?—A. Yes.

Q. I will just ask you briefly what the trouble was between Granger and Adams?—A. Granger said that that was not his testimony.

Mr. FOSTER. That is all brought out in the direct examination.

The CHAIRMAN. Very well; then I will not ask it. I had forgotten about that.

By Mr. WILSON:

Q. So you can not recollect being present at any time except that?—A. No. I attended none of the examinations at San Dimas. Possibly I went in the room; it was next to my office. There was a door open, but I was pushed with my own affairs, and out, as I told you, up at the mine and in the mill.

Q. But these depositions were being taken in a room adjoining your office with a door open?—A. Yes, but I was in and out.

Q. I want to know if that is the fact?—A. My recollection is that that is the fact.

Q. Can you tell us now from whom you were contemplating to buy that mine?—A. I did not say that I contemplated buying the Arrayan mine.

Q. Well, who did?—A. I said that Janin contemplated buying it and he asked me to go over with him, being a stranger in the country. I rode over and kept him company.

Q. What year was that?—A. I believe I have stated July, 1872.

Q. You do not know from whom he contemplated buying?—A. I could state from Calderoon or James Granger, and I will add, either the one or both. Whether it was Calderoon or Granger or both of them I could not say, but both of them were interested in it.

Q. Interested in what?—A. In that mine; the Arrayan mine.

Q. Now, you have stated in the early part of your cross-examination that you assayed ores that were said to come from some of these mines?—A. Yes.

Q. Who said so?—A. The people who brought them over.

Q. Who were the people who brought them over?—A. The miners; I don't recollect their names.

Q. So you don't know whether they came from any of La Abra Mining Company's mines or not?—A. Only the ore that I saw taken from the Arrayan mine; that is the only one.

Q. Just leave that out.

The CHAIRMAN. Well, that answers the question. He says only the ores he saw taken from Arrayan mine.

Mr. FOSTER. Because he saw various collections of ores.

The CHAIRMAN. That seems to be an answer to the question.

By Mr. WILSON:

Q. How much ore did you take from the Arrayan mine?—A. We sampled at least one or two tons of ore from all parts of the mine.

Q. No, no.—A. Well, I told you we sampled one or two tons and quartered it, and quartered it down again, and quartered it down until we got about fifty pounds.

By the CHAIRMAN:

Q. How much of that was from the Arrayan mine?—A. It was all from Arrayan.

By Mr. WILSON:

Q. He took it out from the Arrayan mine?—A. Yes. I accompanied him and held the receptacle to put it into and kept guard over it to see that the mine was not salted.

Q. Had you ever seen the mine before that time?—A. No, sir.

Q. Had you ever seen any ore that came out of that mine before that time?—A. No, sir; not that I know of.

Q. Do you know who was working that mine at that time?—A. Calderoon.

Q. Do you know how long Calderoon had been working it?—A. No, sir.

Q. Do you know how many different people had been working it, or how much ore had been taken out of it after La Abra Company ceased to operate there?—A. No.

Q. So that of the condition of that mine at the time La Abra Company went away you know nothing at all?—A. No, sir.

Q. Nor what had been done to it in the way of taking ores out of it?—A. No, sir.

Q. And what quantity was taken out after that company went away you know nothing about?—A. Only what I heard. I answer it, I don't know, except by hearsay.

Q. Very well. Now, that is the only mine from which you saw any

ore taken?—A. I have stated in my testimony that I sent my right-hand man over and he sampled all this property.

Q. Yes; you sent a man over there to examine?—A. Yes.

Q. And all you know about it is what he reported?—A. Exactly.

Q. Who was your man?—A. Dr. Storch. He was my assayer.

Q. He was the man you sent there?—A. Yes.

Q. Do you know where he got his ores from?—A. Yes.

Q. How do you know?—A. From the maps and reports he brought back.

Q. Yes, and you only know from what he told you?—A. Yes; I kept him for that purpose.

Q. Well, I don't care what you kept him for; that is all you know?—A. Yes.

Q. And that was what year?—A. It might have been 1873.

Q. Well, it might have been?—A. Well, I don't know; 1872 or 1873.

Q. Now, you have testified here this morning that you made some assays from the ores that you got from the patio of the hacienda?—A. Yes.

Q. What year did you get those ores?—A. I think that was toward the end of 1871, at the time I took the wheel out of the old mill—I think that was in December, 1871.

Q. You had taken a part of this La Abra Company property from that place?—A. Yes, I had.

Q. Will you tell us the property you took away?—A. I took a water-wheel 24 feet in diameter and I think 6 feet breast.

Q. What else did you take away?—A. I took some retorts.

Q. How many?—A. Two.

Q. What else did you take away?—A. I took all such machinery as I needed. I can not recollect the pieces, but I took everything I needed to complete my mill at San Dimas.

Q. In other words, you dismantled this mill for the purpose of building up your own?—A. I did.

Q. From whom did you buy that?—A. Santiago Granger.

Q. And was it when you took the mill-wheel away from there that you sampled these ores on the patio?—A. Yes.

Q. And that was as late as the fall of 1871?—A. Yes; it was the same time I was taking the wheel.

Q. Do you know when those ores were taken out that were then on the patio?—A. No, sir.

Q. Had Granger been working these mines after the company left?—A. I don't know.

Q. Had Soto?—A. I did not know Soto then; at least I had seen him in San Dimas in a little store, but I never knew he was in Tayoltita working any mines.

Mr. FOSTER. Judge, for your information I will state that we have had witnesses here who stated that they have worked the mines.

Mr. WILSON. I want to know what this witness knows about it.

The WITNESS. I have stated that I only knew Soto in San Dimas, where he kept a little store.

By Mr. WILSON:

Q. Well, these ores that you sampled, you don't know when they were taken out?—A. No; I don't know what year they were taken out.

Q. No; you don't know what mine they were taken out of?—A. Yes; out of La Abra or El Cristo.

Q. How do you know that?—A. From the people around the hacienda.

Q. Well, that is all you know about it?—A. That is all; and that Granger said they came out there, and if I could work them up and make anything out of them he would allow me to take them over to San Dimas and work them, giving him a royalty.

Q. How much was there on the patio when you went over there in the fall of 1871, when you sampled these ores?

The CHAIRMAN. Do you mean how many tons?

The WITNESS. I did not measure them, but there was a large amount of ores; they covered the whole patio, right up against the mill building.

By Mr. WILSON:

Q. Was it spread out over the patio?—A. Yes; it was high. You could not ride over it; I tried to ride over it once or twice.

Q. And do you know how those ores had been handled from the time they were taken out of the mine until you took your samples?—A. Only by what I saw. The moss and grass had grown around and over it, and they seemed to have been left there undisturbed for a long while; how long I can not say.

Q. Do you know anything about the habits of the people down there in carrying away the best part of the ores after they have been taken out?—A. I do, sir; and I have had lots of experience in it.

Q. Well, what is it?—A. I know if there is any good ore in sight, and it is not watched, that they will pack it off.

Q. And in the course of five or six years if the thing was not accurately watched the best ores would be carried away, would they not, if there was a lot taken out and put on the patio?—A. Oh, yes; they would be packed off if there were any good ores.

Q. Yes, they would be packed off.—A. I could give a whole account of the stealing of ore here, because it is a business. It is not looked on as a crime at all.

Q. It is not considered an offense at all?—A. No, sir.

Q. And whenever a Mexican can get his hands on a good piece of ore he feels at perfect liberty to carry it away provided nobody catches him?—A. If it is neglected; that is, if you leave a piece of ore at the mouth of a mine and go away and do not watch it, they come along and see it and will pick it up and go away.

Q. Well, if it is put on the patio does it make any difference?—A. Not if it is an abandoned patio. If it is unguarded, whoever comes along picks it up, the same as you would pick up a twenty-dollar piece if you found it on Pennsylvania avenue.

Q. Now, Mr. Dahlgren, you do not pretend to be able to state to the committee what that ore was; how much good, bad, or indifferent there was in this ore when it was taken out five or six years before, do you?—A. No, sir, I don't know, and I stated so to General Adams; that I knew nothing about the ore.

Q. Do I understand you to have said in your examination-in-chief that you did not know that your deposition was to be used before a commission?—A. I supposed, of course, that it was to be used somewhere, but I did not know of any international matter between the United States and Mexico.

Q. Well, you did understand, then, that you were giving testimony that was to be used as evidence in the trial of the case somewhere?—

A. I supposed so, but I was not informed so; but I knew nothing. General Adams did not tell me that he was collecting it to be used before a commission.

Q. Well, I am only confining my question to this: Did you understand

that you were giving testimony that was to be used as evidence in the trial of some cause, somewhere, before some tribunal?—A. No, sir; that it might be used, but not that it was or that any case was on.

There is one thing I would like to state here and which will enlighten you. General Adams had asked me in San Dimas if I would testify and I declined, and when I met him again in Mazatlan, some months afterward, then he asked me these questions and I told him at the time that I thought my evidence would be of no benefit to him.

Q. Well?—A. But I did not know that he was going to use that before any commission, but I imagined that he might use it if necessary.

Q. All right?—A. And he never said that he was going to use it before any commission.

Q. What idea did you have, now, as to his purpose in going down there to Mexico and going to all this trouble and expense to get testimony; did you have any idea about it at all?—A. No; I did not.

Q. Who was this man Avalos?—A. He was a Mexican Indian from Tepic; from the State of Jalisco.

Q. Were you well acquainted with him?—A. He was my confidential man for carrying money to and fro—and silver.

Q. I believe you stated the other day he was very reliable?—A. He was.

Q. An honest man?—A. I never knew him to steal a sixpence or lie. He was honest and brave.

Q. And truthful?—A. And truthful.

By the CHAIRMAN:

Q. And intelligent?—A. I think he was as intelligent as one of those Indians can be. For instance, in asking me about it he said, "I have given my testimony; will any harm come of it?" I then said to him, "Did you tell the truth?" He said, "Yes." "Then," I said, "no harm will come of it." But they are all afraid of lawyers, because in Mexico a lawyer is called *huisahero*, which means the scratching noise of the pen; and so he was always afraid to go into a court, and it would be a very easy matter to trip him up.

By Mr. WILSON:

Q. Well, you regard him—A. As an honest man.

Q. As a faithful, honest man?—A. I traveled all over that country with that one man, through the mountains, everywhere, when people said: "Look out he will rob you." He never took a cent from me, and in danger always stood by me.

Q. And he is a man you would rely upon?—A. Yes; and when we were attacked by robbers and the rest of them left me he stood by me.

Q. And anything he would say you would rely upon as being truthful?—A. Yes.

Q. And if he swore to a thing you would have no hesitation in believing it?—A. No; and I offered to bring him to this country with me.

Q. During how many years was Aralos with you?—A. Five years and two months; and he came out in the boat with me as far as he could wade.

Q. How soon after you went there did you get acquainted with him?—A. I found him there.

Q. At the mines?—A. At the hacienda, in the same capacity for my predecessor, and he recommended him to me. He said, "This is my *extraordinaire* confidential man, *moyo*."

Q. When did you leave Mexico?—A. In 1875.

Q. What time in 1875?—A. I think it was in September; the middle or latter part of September.

Q. Was the Durango mine in operation when you left?—A. Yes.

Q. Was the company that you went out for still operating it?—A. Yes; I turned it over to my successor.

Q. And does that company continue to operate it?—A. They are working it there to-day.

Q. They work it there still?—A. Yes.

Q. Why did you go from Durango?—A. I came out of Mexico on crutches and staid in San Francisco until I got well.

Q. I just simply don't care anything about only where you went.—A. Yes.

Q. How long did you stay in San Francisco?—A. Through October.

Q. Where did you go then?—A. General Rosecrans sent for me to come up to Indian Cañon.

Q. In a mining operation?—A. Yes.

Q. How long did you stay there?—A. A couple of years, if I recollect aright. It might have been a year and a half or two years.

Q. How long did you stay up in that mine?—A. I staid in a part of 1875 and I don't recollect how long in 1876.

Q. Well, when did you go back to San Francisco, if you went at all?—A. I did not go back to San Francisco from there, I went to Ward District.

Q. How long did you stay there?—A. I put up a \$20 stamp-mill there.

Q. Well, I did not ask that.—A. I say I don't know how long; long enough to put up a mill.

Q. Then where did you go from there?—A. I went back to the Comstock and went to work.

Q. How long did you stay there?—A. I was in their employ both there and at the refinery for more than a year.

Q. And from there where did you go?—A. I went to Arizona to put up a \$20-stamp mill and ran it.

Q. That came up to what date?—A. Oh, I don't recollect.

Q. What year?—A. I think it was 1878. I will not be sure.

Q. Now tell us who first called your attention to this matter of the testimony that was used in this case and purporting to have been given by you, to which your attention has been called this morning; who first called your attention to that?—A. A. A. Green.

Q. When?—A. In 1877.

Q. Where?—A. At the refinery in San Francisco; the Bonanza refinery.

Q. How did Mr. A. A. Green happen to bring this thing to your attention?—A. After work we met. It was my custom to come into San Francisco, dress up and come in, and I met him and we sat down in the Cosmopolitan Hotel. He had been in Mexico many years and knew that I had been there, and we had relations in this Candelario business; so that we were acquaintances. He said, in speaking of—

Q. Just wait. Before you come to what he said I want to know first how you came in contact with him in San Francisco?—A. Accidentally.

Q. Did he seek an interview with you or you with him?—A. No, sir; it was accidental.

Q. Where did you meet him first?—A. I met him in the street.

Q. And what occurred between you and him in the street?—A. I don't recollect whether in the street or the hotel; whether I had left the street and gone into the hotel; or what not; but I recollect that he

said to me, "You gave testimony in the La Abra case?" I said, "I presume I did. I gave testimony to General Adams." "Yes," he said, "you did." He asked me what was the purport of my evidence. I told him that I testified that I had taken down machinery and moved it over to San Dimas and used it.

Q. Well?—A. He then said, "Adams told me;" he said, "you got Dahlgren's testimony, did you?" "Yes," said the general, "and it cost us a good round sum, too," or words to that effect.

Q. That is what Green told you?—A. That is what Green told me.

Mr. LINES. That Adams told him.

By Mr. WILSON:

Q. Green told you that Adams told him that?—A. Yes. Green asked me, "Did you do that?" I don't know whether I said he was a liar or not, but I denied it flatly there.

Q. And it was not true, either, was it?—A. It was not true; no, sir.

Q. Well, did Mr. Green then proceed to tell you what you had testified to in your deposition, so far as your deposition showed?—A. No, sir. I did not want to hear any more, and I don't know that he knew or that he did not.

Q. Did he tell you what his business was out there?—A. No, sir.

Q. Is that all the conversation you had with him?—A. I asked him where Adams was; where I could find Adams and confront him.

Q. Well, now, that is all that occurred between you and Green?—A. Oh, we sat there for half an hour or an hour and chatted, but that is all that I recollect.

Q. He did not tell you anything about what was in your deposition?—

A. No, sir.

Q. What?—A. You mean the sum and substance?

Q. Yes.—A. He said that I had sworn for Adams; that I had testified for Adams.

Q. That is all he said?—A. Yes.

Q. He did not tell you what was in your deposition, did he?—A. He asked me what I had stated. I told you that I said that I had testified that I took down the mill.

Q. Exactly; you told us that already.—A. Yes; I told you that.

Q. Yes; but did he tell you what was in your deposition?—A. He told me words to that effect that Adams had said that I had sworn. He said, "Is that all you stated?" I said, "Yes." "Why," he said, "your testimony is very voluminous," or words to that effect. "You have a big testimony there, and you testified for Adams." I said, "I did not know my testimony would help Adams, and told him so," and I said, "I told Adams my testimony would not be of any benefit to him."

Q. Did he tell you what your deposition, as it was used before the commission, was?—A. Only that I had testified in favor of Adams; I had stated that those were valuable properties.

Q. Well, he told you that, did he?—A. Yes.

Q. Then he knew what was in your deposition, did he?—A. I presume he did; I did not ask him.

Q. Then he went on to tell you all about what was in your deposition, did he not?—A. No; he just told me the sum and substance; did not say anything about my name or what I said in reference to my father, but simply that my testimony was voluminous and was in favor of Adams.

Q. And that is all he told you?—A. And that he had bought me for a good round sum.

Q. Yes, he told you that?—A. Yes; and that ended the talk about that, because I was not in a humor to continue it.

Q. Now, you have got a very good memory. Was there anything else that happened between you and Green at that time?—A. No, sir; I don't recollect. We went out and took a drink.

Q. Oh, I don't care anything about that.—A. Well.

Mr. FOSTER. You asked anything that happened.

The WITNESS. Well, that is what happened.

By Mr. WILSON:

Q. I am talking about what happened in your testimony; anything he said.—A. No, I don't recollect.

Q. Now, in order that we may have no misunderstanding about your testimony here now—I don't want any more trouble about your testimony—I wish you to begin at the beginning of that interview between you and Green, and state it as circumstantially as you can remember, so that we may have it in a compact form right here in this record.—A. I met Green in San Francisco, and, as far as I know, it was accidental; it was on my part. We had a conversation on general subjects, mining subjects, and then he related to me what I have told you here.

Q. Well, I want you to repeat it now just in your own way, because I want you to put it so we will have no misapprehension about it. Just tell it in your own way.—A. He said: "You have given testimony in the La Abra case." I said: "I don't know, in La Abra case. I gave testimony to Adams, and I don't know what he was going to use it for." I don't recollect whether he told me it was before a commission or the United States Senate. I believe—no, the British minister; that was it.

Q. Who said the British minister?—A. Adams.

Q. Adams said that to you?—A. No, no, not Adams; Green. I think he told me it had been used before the British minister, and I said: "What has the British minister got to do with it?" "Oh," he said, "he is the umpire." I said I told Adams that my testimony would not be of much use to him when I gave it; that I did not know anything about the mine, and all I knew was that I had taken that machinery away from there and had a correspondence about it. "Well," he said, "that is not the way it appears." I said, "Why not?" "Well," he said; "it is big testimony," and I have forgotten what he did say, but he added that Adams had said—he said: "Then you did get Dahlgren's testimony." He said: "Yes, and it cost me a good round sum, too." Then I broke out, and finally I cooled off, and asked him where Adams could be found. He said he did not know; he might be in Washington; might be in New York, but I recollect this fact: that then I sat right down and wrote that letter. I asked him, "Who shall I write to?" He said: "Write to Mr. Lines." I had not heard of Mr. Lines, and in fact did not know his name, and I wrote it Lyons; did not know any better. He said: "Write to R. B. Lines and tell him so if this testimony is not what you wish," and I did. I said I had reason to believe that my testimony had been perverted, but did not know what it was because I had not seen the testimony, and never saw it until the other day.

Q. Now, do you say that Mr. Green came and told you this story?—

A. Yes.

Q. And you inquired of him to whom you could write?—A. Yes.

Q. And he directed you to write to Mr. Lines?—A. Yes.

Q. Suggested that you write to him?—A. Yes.

Q. Did he tell you what relations Mr. Lines bore to this case?—A. No, sir; he did not.

Q. He told you to write to Lines?—A. Yes; R. B. Lines.

Q. And thereupon you wrote this letter?—A. Yes, I wrote it.

Q. And you wrote the letter upon the strength of what Green—A. The information Green had given me.

Q. Green had told you?—A. Yes.

Q. That is how that came about?—A. Yes, that is how it came about.

Q. Well, did you write to anybody else?—A. I do not recollect.

Q. Did you get a letter back from Mr. Lines in response to that?—A. I do not recollect, sir.

Q. Can not you remember? You were saying that your testimony you had good reason to believe had been perverted and that it was fraudulent and that it should be treated as such, and you wrote that to Mr. Lines; and you say you can not remember now whether you got an answer back from Mr. Lines?—A. No, I can not. I do not recollect anything about it, for the simple fact that about that time, not being able to attend to heavy work in the place, I asked permission to go down to Arizona, because I had a severe cold and rheumatism already had settled down upon me from this hard work, and I went down there to put up this mill. Our mail only came once a week, and my impression upon that point is that I got an answer. I am not very clear upon that. Still I may have got an answer.

Q. What is your best recollection?—A. I have no recollection.

Q. Have you made any examination to see whether or not you have any letter from Mr. Lines in response to yours?—A. I lost a great deal of my baggage, etc., by fire, covering my record in that mill there and the time I went to Arizona. I went to Mexico with General Rosecrans after that, and I lost nearly all my baggage by fire.

Q. Have you ever looked to see whether you have such a letter?—A. No, sir; I have not.

Q. You have not turned over such a letter to Mr. Lines or Mr. Foster or anybody else, have you?—A. I do not know that I have.

Q. Did you turn over a lot of letters to Mr. Foster or Mr. Lines?—A. I do not recollect.

Q. You do not recollect?—A. No, sir; I do not. I say that emphatically. I do not recollect anything about it, because my business called me off.

Q. Have you forwarded any letters to either of these gentlemen or the Mexican minister?—A. I do not think I ever had any correspondence with the Mexican minister.

MR. FOSTER. Do you mean to embrace letters written to him?

MR. WILSON. I want the letters written to him.

THE WITNESS. I do not recollect ever writing a letter to the Mexican minister.

By MR. WILSON:

Q. I am asking you if you turned over any letters to Colonel Foster or to Mr. Lines?

MR. LINES. You mean recently?

MR. WILSON. Oh, gentlemen, now—

THE WITNESS. Now I told you I do not recollect of ever having turned over any letters at all to the Mexican minister.

By the CHAIRMAN:

Q. Or Mr. Foster?—A. Or to Mr. Foster or to Mr. Lines.

By Mr. WILSON:

Q. You say you can not recollect whether you did?—A. No, sir; I do not recollect.

Q. Will you say that you did not?—A. Oh, I do not know.

Q. Well, you say you did not turn over letters to these gentlemen?—A. I can not say what I do not know.

Q. I want now to know whether you will say whether you did not turn over letters to these gentlemen. Now do not dodge that question.—A. I have told you, sir; I have no more idea of it than I have of flying.

Q. Well, you say you did not do it?—A. No, I won't say I did not; I won't say I did. I will not say. I do not know.

Q. Have you any further correspondences in this particular line?—A. Letters sent to me, or a telegram it may have been; a month or six weeks ago.

Q. Have you written any letter to Mr. Foster?—A. Yes; I wrote a letter recently.

Q. How long ago?—A. I got a telegram asking me if I would accept a summons before this committee, and I replied to that.

By the CHAIRMAN:

Q. Who was that from?—A. One was from the Sergeant-at-Arms of the Senate, and another from Mr. Lines, I think.

By Mr. WILSON:

Q. I want to know now did you answer the letter from Mr. Lines?—A. I can not answer; I think not. Yes, I think I did answer it.

Mr. LINES. He said telegram.

The WITNESS. Telegram.

Mr. WILSON. He said he got a telegram. He did not say he answered that telegram.

The WITNESS. Yes, I recollect this correspondence.

Q. Did you write to him?—A. I either wrote or telegraphed.

Q. Did you write to him?—A. I think it very possible. I may have written to him.

Q. How long ago?—A. All this correspondence I am speaking of here is within the last six weeks.

Q. Now, within the last six weeks did you send him any letters?—A. No, sir; I do not think I did.

Q. Are you sure about it?—A. What letters? His letters?

Q. Yes, or any body else's letters within the last six weeks or two months.—A. No, sir; I do not recollect of sending any letters to anybody, except answers to their telegrams to me.

Q. Well, will you say you didn't send any letters?—A. Yes; I think I did not.

Q. You say you have written to Mr. Lines; will you say you did not send a letter to Mr. Foster at or about the same time?

The CHAIRMAN. What time?

Mr. WILSON. Within six weeks or two months; some letters.

Mr. FOSTER. That is other than those he wrote to him.

Mr. WILSON. Yes; that is what I am talking about.

The WITNESS. I never sent any other letters, other than I sent these telegrams, in reply to those asking if I would appear.

By Mr. WILSON:

Q. Did you at any time prior to six weeks ago forward some letters to Mr. Foster or Mr. Lines or either of them?—A. I do not recollect; I do not think I did.

Q. Will you say you did not?—A. No; I won't swear to it, because I don't know.

Q. You won't swear you did not?—A. No; that is, previous to this interval.

The CHAIRMAN. I ask you, Judge Wilson, what letters you refer to?

Mr. WILSON. I have been asking him about this letter of the 12th of November, 1877.

The CHAIRMAN. That is the letter addressed by Mr. Dahlgren to Mr. Lines?

Mr. WILSON. Yes; and I want to get the letter he got in response to that.

Mr. LINES. He has not stated he got any.

The WITNESS. I do not recollect getting any.

The CHAIRMAN. You want to show by this witness that he got a letter from Mr. Lines and that he has surrendered that letter to Mr. Lines?

Mr. WILSON. That is it. I want to get all the correspondence.

The WITNESS. I do not know that I ever received a letter from Mr. Lines, except his telegrams.

By the CHAIRMAN:

Q. I now ask you if Mr. Lines responded to that letter put in the record? Did you send his response back to him?—A. No, I don't think I did. I am not accustomed to doing a thing of that sort.

Mr. LINES. Mr. Chairman, he has not said that he got a letter in response.

By the CHAIRMAN:

Q. I now ask you if Mr. Lines responded to that letter put in the record, and did you send his response back to him?—A. No; I don't think I did. I am not accustomed to doing a thing of that sort.

Mr. LINES. Mr. Chairman, he has not said he got any letter in response.

Mr. FOSTER. He says he does not recollect getting any.

The CHAIRMAN. I suppose Judge Wilson's point is this, that Mr. Lines had written a letter in response to his of November 12, 1877, and that after getting that response from Mr. Lines he then sent Mr. Lines's letter back to him. That is what I understand, the purpose being of course—

Mr. WILSON. I want to get the answer; that is all. If he has not got it—

The WITNESS. I had some testimony, some of these books sent out to me, asking me if that was my testimony.

By Mr. WILSON:

Q. Who sent them to you?—A. I think General Foster sent me the evidence.

Q. Did anybody else send it to you?—A. No; not that I recollect. I presume it was General Foster.

Q. Did any letter accompany it?—A. Yes.

Q. What did you do with that?—A. I do not know whether I had it with me or what I did with it.

Q. Well, have you got it with you now?—A. No, sir.

Q. Have you got it in this city?—A. I do not think I have.

Q. Where is it?—A. I think I left it in the other committee room.

Q. Well, it is in the city here, is it?—A. It was in the first room we sat in.

Q. In whose custody is it?—A. Well, come to think of it, I think I left it down there. I do not know what I did with it.

Q. Well, look it up for us.—A. It was such a plain letter that I did not—no, I left it down there.

Q. Well, well, look it up.—A. Yes; I will.

Q. Now, after you had had this interview with Green when did you next see Green?—A. I do not know; I have seen him a number of times since.

Q. Talked it over since?—A. No, sir; never.

Q. Never talked it over since?—A. Never spoken of it since.

Q. Did you have any correspondence with anybody else about the time you wrote this letter with reference to your testimony?—A. I do not recollect, sir.

Q. Did you take any steps to ascertain what your testimony really was as it was on file in the Department?—A. No; I told you that I went off from San Francisco with General Rosecrans and went down into Mexico with him, and that I was there some time. I was in Arizona and I was in Mexico with Rosecrans, and I was moving about where I could not get mail, and the thing passed from my memory.

Q. Well, I want to know if you wrote to any one about it?—A. I do not think I did.

Q. Did you have any correspondence with Mr. Sisson about it?—A. I do not recollect that. I told you I dropped the whole thing, having other business to attend to.

Q. Did you write to Mr. Sisson on the subject?—A. I do not know, sir; I do not recollect it.

Q. Well, if you wrote to Mr. Sisson, it has entirely passed out of your memory, has it?—A. Yes, it has entirely passed out of my memory.

Q. And if he wrote any letters to you—A. I have seen Sisson since.

Q. Hold on. I have not asked you about that. If he wrote any letters to you, and you received them, that has passed entirely out of your memory, has it?—A. Yes.

Q. If it turns out now that you had a great deal of correspondence or considerable correspondence with Mr. Sisson, your mind is entirely a blank upon that subject?—A. Yes.

Mr. FOSTER. About this matter, or about some other matter, which?

Mr. WILSON. About this matter.

The WITNESS. It has all passed from my memory.

By Mr. WILSON:

Q. Well, are facts of that kind likely to pass out of your memory; is your memory bad?—A. No, sir; in attending to my own business my memory is good, but in attending to other people's business—if I had known of the result of this thing I would have been prepared for it all the way through, so that you would not have needed, probably, any other witness. I told General Adams that I did not think my testimony would be of much benefit to him, and it was only when I was told he had bought my testimony by a good round sum of gold that I paid attention to the business, and I did not until a short time ago know when I was asked if I would testify in case I was subpoenaed, or would I answer a subpoena of the Sergeant-at-Arms.

Q. What do you mean by saying if you had known about this thing we would not have needed any testimony but yours?—A. I mean I would have been so well prepared as to what might be demanded of me to show the value of the mines I would have come here and demonstrated clearly by maps, etc.

Q. Well, go on.—A. That is what I mean to say.

Q. You would have come here with maps?—A. I would have had my recollection perfectly clear on the subject.

Q. In other words, if you had known just what was in this deposition before you came here you would have been thoroughly prepared to disprove all the matters that are alleged in this deposition. Is that what you mean?—A. No, I do not say that.

Q. Well, let me understand just what you do say.—A. I have stated in my examination exactly what I did say. There is a great deal in that deposition that I did not say, and I would have had another witness. I never would have allowed myself to have gone in there and had the very man that wrote that document sign himself as a witness, and then push that forward as my evidence.

Q. Well, I do not quite comprehend you yet, I confess. You say what you mean, and if you can make yourself a little more clear I would be glad to have you do it.

Mr. FOSTER. On what point? Probably that would assist him.

Mr. WILSON. He has said that if he had known what was in his deposition he would have come here so prepared as we would not have wanted another witness.

The WITNESS. No; I say that if I had known what was taking place I would have come fully prepared.

The CHAIRMAN. I do not understand the witness to say that if he had known what was in his deposition he would have come prepared to dispense with further testimony, but if he had known what the requirements of this examination were that he would have been so prepared with data that he would have made a clear statement.

The WITNESS. That is what I mean to say.

By Mr. WILSON:

Q. Now what data would you have prepared yourself with?—A. I would have secured all the maps of my right-hand man—and I have assisted in making them—of these properties, the exact condition they were in when we saw them, and the values of ores in sight in the mine.

Q. Yes, some two or three or four years after the company had left there. That is what you would have done, is it?—A. Yes, and in mining suits we are accustomed—if you have ever been in any I don't know, we have a great many on the Pacific slope, and we always go fully prepared with maps and data sworn out, and I would have been, just as the Senator says, prepared to answer any question you ask; also with my correspondence; I would have kept all my correspondence on the subject.

Q. You would have kept it?—A. Yes, and I say I did keep a good deal of it, but most of my effects during that year were burned, destroyed by fire.

Q. Did you ever write to General Adams in regard to this alleged perversion of your testimony?

The CHAIRMAN. Mr. Wilson, do you propose to lay a predicate by that to impeach the witness.

Mr. WILSON. Well, I want to get at what he did.

The CHAIRMAN. Well, is that the point of your question?

Mr. WILSON. The point of my examination is to see what the witness did when he had been notified that his testimony had been perverted.

The CHAIRMAN. If you propose, Judge Wilson, to impeach the witness by contradictory statements made by him to a letter of General

Adams, it is proper of course that you should give the date of the letter and produce it if you have it.

Mr. WILSON. Oh! I have not got it now. It may turn up. I simply want to know now whether he wrote to General Adams.

The CHAIRMAN. Testing his memory and not impeaching him?

Mr. WILSON. Yes; I want to know whether he wrote to General Adams about it.

By the CHAIRMAN:

Q. Do you remember, Mr. Dahlgren, whether you wrote to General Adams about this subject?—A. I recollect of asking Green where I could find Adams.

Q. That you have stated. Now, do you remember writing him a letter.

By Mr. WILSON:

Q. What did Green say?—A. Green told me Adams might be in Washington or New York or moving about, and not knowing where to write to him I did not write, but I wanted to write to him. If I had found out where he was I should have gone on to see him personally. I did not want write any letter; I wanted to see Adams personally.

By the CHAIRMAN:

Q. If I understand you, Captain Dahlgren, you mean to say that you were excited and indignant about the accusation made against you as communicated by Mr. Green?—A. Yes.

Q. That you had been bought up in this matter by a large sum of money?—A. Yes, for a good round sum of gold. That was the expression.

Q. And that was the inducement to you to write to Mr. Adams about it?—A. Yes.

Q. That is the answer you want to make?—A. Yes.

By Mr. WILSON:

Q. Well, you were excited and indignant?—A. Yes, I was.

Q. Now, will you tell the committee what you did other than simply to write this letter to Mr. Lines under that excitement and indignation?—A. Oh, I have forgotten.

Q. Under that excitement and indignation, I will now ask you can you remember whether you wrote to Consul Sisson on the subject?—A. I answered that awhile ago, and said that I did not recollect.

The CHAIRMAN. Have you any letter from him to Sisson?

Mr. WILSON. No; I have not.

The CHAIRMAN. Do you propose to introduce any?

Mr. WILSON. We expect to get it after awhile.

The CHAIRMAN. Well, this can not be considered a predicate for impeaching the witness, unless you call attention to his letter.

Mr. FOSTER. And you remember, Mr. Chairman, they pursued the same course in the examination of Elder, stating they had no letters, and the next day they came in with the letters. Of course, I accept the explanation, but it is not the proper course to pursue.

The CHAIRMAN. There are two views in which such evidence is competent. One is a test of memory of the witness, and the other is to impeach, and only these two views. Now, if you propose to impeach this witness by producing letters to Sisson, or any body else, they must be produced now. Otherwise they can not be produced in this examination.

Mr. WILSON. Well, I most respectfully submit, Mr. Chairman, that this witness is here now testifying eighteen years nearly after he gave

his testimony before. He is denying that he gave that testimony, and I want to test his recollection.

The CHAIRMAN. That is right.

Mr. WILSON. And it would be perfectly useless for me to hand him a letter and ask him if he wrote to Sisson, because he would say at once, "I did." I want to know whether he had any correspondence with him about this thing. He has here sworn that Mr. Sisson's certificate is absolutely false in all its material facts.

The CHAIRMAN. Rather he swears that it is not Sisson's certificate.

Mr. WILSON. No, but Sisson signs it. It is Sisson's certificate. If I had a young man in my office write out a certificate and I sign it or write a letter at my dictation and I sign it, that is my letter, and I do not want this witness to have the advantage of saying these things and if his memory is so bad that is a matter he ought to be able to tell, whether in a matter of this importance he has had a correspondence with Sisson.

The CHAIRMAN. Now, as a test of memory you can ask him whether he wrote to Sisson, and you can produce a letter to show that he did write a letter to Sisson. You can not offer that in evidence to impeach him unless you produce it now and call his attention to it and ask him if he wrote that letter and the particulars of it. The rules of evidence, of course, would not admit of a mere experiment of the witness and cause his impeachment by fault of memory. There must be more than that in it. Now, of course, I have permitted you to go on and ask him the question to test his memory as to whether he wrote a letter to Mr. Sisson or he wrote a letter to Mr. Lines or General Foster and so on, but if you expect to impeach him by the contents of any of those letters you ought to produce them, and it will be ruled out unless you do.

Mr. WILSON. Well, I will have to ask the committee, of course, to keep the witness here until I can get such correspondence. That is all I can do about that.

The CHAIRMAN. You have not got it now?

Mr. WILSON. I have not; no, sir.

The CHAIRMAN. Well, there has been notice served here, you know, to produce papers, various papers connected with the administration of the affairs of La Abra Company, and the committee so far have got none except those that were brought in here for the purpose of impeaching the witness later. I thought when those papers came in that there was an evidence connected with them of insincerity on the part of La Abra Company in respect of its records and its historical data connected with this claim, and the committee have been very diligent in trying to get from La Abra Company some of its records relating to this claim.

Mr. FOSTER. Correspondence also.

The CHAIRMAN. And correspondence, etc. A number of notices have been served, and I must say that if La Abra Company, after having had these notices to produce this correspondence, etc., now find it convenient to produce them, that the witness ought not to be held, and this case ought not to be delayed merely to suit their convenience in bringing forward this record evidence, whatever the nature of it may be. We will have to conclude this case, you know, and it is hardly fair to anybody, especially to the Senate, to allow the company to withhold, if they are withholding, their data and record evidence and to bring in only so much of it as may tend to impeach a witness without presenting the whole case fairly and fully.

Mr. WILSON. Now I want to say one or two things in response

that. In the first place, I, not having been here, perhaps may not be thoroughly informed as to one matter. I understood that a response had been made to the application for certain papers, and that that had been made in writing and been presented by Mr. Kennedy. I only know that such a paper was prepared in the office, but never read it because I was engaged elsewhere, and I supposed that that had been done. If it has not been done it will be done.

The CHAIRMAN. That paper is here and it will be printed in the record.

The paper is as follows :

WASHINGTON, D. C., January 25, 1889.

To the Chairman of the Subcommittee of the

Committee on Foreign Relations of the Senate engaged in investigating La Abra award :

DEAR SIR: We on yesterday received, through our associate in the representation of La Abra Company in said investigation, Mr. Kennedy, two letters, one dated the 8th of January, 1889, from the clerk of said committee, requesting us to produce before the committee all the records, books, accounts, correspondence, and other documents and papers pertaining to the business of said company from its organization to the present time.

The other letter is of the same date from the said clerk asking us to furnish the names and addresses of the present officers of said company and the names of all who have been officers of the company since the organization thereof.

In reply to these communications, the undersigned wish to say in the first place that since the date of the said letters neither we nor, so far as we know, any associate of ours in the representation of said company have seen, or have had opportunity to confer with, any officer of the said company, and counsel are neither possessed of the information nor the means of complying with said demand as to said books, etc., nor as to the names of officers. No officer or agent of the said company is in this city or has been since the date of said letters, so far as we know.

We have telegraphed to the secretary of the company, Hon. Sumner Stowe Ely, who, we suppose, is at Girard, Pa., to come to Washington immediately. We have no reply to that telegram, but hope that he will arrive here soon.

So far as counsel are advised, they know of no objection on the part of said company to furnish the names and addresses of officers as called for, and we think that this will be done as soon as Mr. Ely can be seen or heard from.

In regard to the production of books, etc., counsel reply that they know of no authority, either in the courts or in committees of investigation in Congress, to throw out such a drag-net against any citizen as Mr. Foster, in the interest of Mexico, here attempts to employ, demanding the production of every manner and description of paper which ever existed in the business of said company, without distinction, and without any limitation, specification or description showing the materiality of the paper called for.

But whilst counsel deem it proper to protest against the right to make any such demand, yet counsel do not now know of any objection on the part of the said company to produce any books, papers, or documents which it may be practicable for the company to produce, and counsel will submit to the officers of the company as soon as they can said demand for books, etc., and such officers will make due and proper response thereto without any avoidable delay.

In this connection counsel wish to remind the committee that months ago the secretary of the company, Mr. Ely, filed with the committee an affidavit, showing that the great body of the books and papers of the said company, and embracing either all or substantially all the books and papers of the said company down to about the period of 1870, were boxed up, stored away in a loft, and, on thorough search repeatedly made about or soon after the period of 1870, were ascertained to be irrecoverably lost, and this affidavit by Mr. Ely, as is reported to the committee by the chairman of the sub committee, was taken to the chairman's house, and at last accounts the chairman was not able to find or return the affidavit to the committee, but the chairman stated the substance of the affidavit correctly on page 50 of the testimony taken by the sub committee, where he says :

"The substance of his affidavit [Ely's] was that he had made very diligent search for the papers of the company in New York, and, as I remember it, that he was not able to find any at all."

Counsel wish further to remind the committee, in this connection, that David J. Garth was fully examined before the subcommittee regarding the loss of said books and papers, and regarding his inability to find or produce the same, and that his testimony was substantially like the affidavit of Mr. Ely. Mr. Garth's testimony touching this point will be found at pages 186-189 of the same document.

Since writing the foregoing we learn that Mr. Ely, the secretary of the company, in obedience to a letter from us, has sent to the committee, and the committee now has, a list of the officers of the company, as requested. Counsel for La Abra, since they learned that the present taking of depositions would be entered upon, have endeavored to procure the attendance of the said secretary, Mr. Ely, before the committee, but he has not yet reached the city. When he does appear the committee will have opportunity to find out from him what papers, etc., if any, are obtainable, and possible to be submitted to the committee. All that counsel can now say, further than is above stated, regarding the production of papers is, that counsel will favor the production of all such papers as are named in said call, and which have any possible bearing upon the present investigation.

SHELLABARGER & WILSON,
Of Counsel for La Abra.

The CHAIRMAN. As we have been going along with this examination papers have come out that have been in the custody of this company evidently for a long time, and now, as I understand your intimation, you intend to produce letters from this witness to Mr. Green, or to Mr. Foster, or to Mr. Lines, which in their nature would reflect on the integrity of his testimony.

Mr. WILSON. Not at all.

The CHAIRMAN. You do not?

Mr. WILSON. So far as I know I can not say how the letters to Mr. Lines or Mr. Foster could get in our possession. I was examining him with a view of getting them from him.

The CHAIRMAN. I must say in perfect candor that the company, having such important interests as are involved in this matter and receiving or expecting to receive money from time to time in the payment of this claim against Mexico, and has kept no record, no papers, nothing to be found in regard to its transactions——

Mr. WILSON. Well, as to that I say I am not prepared to say, because I have not seen the paper that has been prepared in response to it.

The CHAIRMAN. In conducting this examination of course I feel bound to inform the Senate of the best evidence that can be produced of the whole transaction, and these papers have not been forthcoming and no records have been forthcoming from the company, and of course it is my duty to try and limit the examination now to what I might deem the strict rules of evidence.

Mr. WILSON. Very well. Now, one other thing; and I want to respond a little to that. The statement made a moment ago that there was an apparent insincerity in regard to the production of letters; in other words, that the witness having been examined in regard to letters and the next day they were produced, I have simply this to say——

The CHAIRMAN. Who made that statement?

Mr. FOSTER. I made the statement a few moments ago.

Mr. WILSON. I have simply this to say as to the papers that were produced here. There were two packages that came, and one came by express. I found it in the office in the evening when I went down from court. I opened it and saw it related to this case. I intended to give it to Mr. Kennedy the next morning, but when I went off to court he had not yet come into the building, and so the matter passed over that day, and there was a session of this committee that day. When I went back to the office that evening I found another package that had come by mail, and I went to Mr. Kennedy's room and told him that I wanted to meet him that evening, and at half past 7 we met in the office and I turned these over to him. I did not read one of them, and then I went off to another matter. I was with him probably fifteen or twenty minutes. I turned them over to him and he brought them here next

morning. So that we had them in our possession, one package, from one evening until the next evening, when I gave them to him, and the other package I had perhaps a couple of hours before I turned it over to him; but that package that contained the letters he did not have until the night before; neither did I; and he brought them here when he came up.

By Mr. WILSON:

Q. I believe you said that when you gave your deposition there you went back to San Dimas on urgent business?—A. Yes.

Q. Can you remember what was the occasion of your going back so suddenly so that you could not have your testimony written out?—A. I do most distinctly.

Q. What was that?—A. My financial affairs.

Q. That was all, was it?—A. Yes.

Q. Had you had any intimation on that subject before you started back?—A. I was in a bad situation financially until I got this mill started.

By the CHAIRMAN:

Q. Your answer is, that the immediate and urgent cause of your leaving Mazatlan to return to San Dimas was the state of your financial affairs?—A. Yes, and my mining business.

By Mr. WILSON:

Q. I wish to ask you whether you brought with you any letters that you had received from anybody in relation to this deposition of yours?

The CHAIRMAN. Do you mean brought here?

Mr. WILSON. Brought here to the city of Washington when he came on here pursuant to this subpoena.

A. I brought no letters that I know of.

Q. That you know of?—A. Yes.

Q. Well, if you did bring any you would know it?—A. Yes, I would. I brought no letter relating to this deposition—my own letters you mean?

Q. No, no; I mean letters that you had received from parties?—A. Yes, I brought one.

By the CHAIRMAN:

Q. Who was it from?—A. That is the letter that I told you was down in the other committee-room.

Q. Who was that from?—A. It was from General Foster.

By Mr. WILSON:

Q. Well, did you bring any others from anybody else?—A. No, sir.

Q. Did you bring any papers of any kind?—A. I brought my diary.

Q. When was that diary made?—A. 1872.

Q. Have you that diary with you now?—A. No, sir.

Q. Where is it?—A. It is at my house.

By the CHAIRMAN:

Q. That is the same book you have been referring to?—A. Yes.

By Mr. FOSTER:

Q. At your house in this city?—A. Yes.

By Mr. WILSON:

Q. Will you produce that and let the committee have it?—A. Yes.

Q. You say that was made in 1872?—A. Yes.

The CHAIRMAN. I don't know that the committee would want to have his diary put in evidence.

Mr. WILSON. No; I do not want to put it in evidence before I see it. I mean produce it before the committee.

Mr. LINES. Are you entitled to see it? He has made no reference to it.

Mr. WILSON. He said he used it right along.

The CHAIRMAN. He said he referred to his diary, and that would entitle Judge Wilson to examine it.

Mr. LINES. Only as to the reference, though, would it?

The CHAIRMAN. Only as to a matter that refers to this inquiry. It may have a thousand things in it.

Mr. LINES. You mean only the points brought out in this examination, of course.

By Mr. WILSON:

Q. You say that the diary was made in 1872?—A. Yes.

Q. And where did you keep that all these years?—A. I kept it with my other diaries. For the last twenty-three years I have kept a diary.

Q. Where did you keep all these diaries?—A. I kept them in the Safe Deposit Company.

Q. Where is the Safe Deposit Company?—A. When I lived in Brooklyn I kept them there, and when I was in Trenton I kept them in Trenton, or my wife kept them for me. When we went away to the island of Nantucket we took them with us.

By the CHAIRMAN:

Q. You mean you kept them under your control all the time?—A. Yes.

Mr. WILSON. I would like to have him produce that diary so that we could look at it.

Q. Have you visited the Mexican minister since you came here?—A. No, sir.

Q. Who went with you to examine this deposition in the State Department?—A. General Foster.

Q. You visited him, I suppose, since you came to this city?—A. I have been once to his residence.

Q. Has he been to yours?—A. Once he stopped at my house to take me over to the State Department.

The CHAIRMAN. Judge Wilson, have you any question to ask this witness in regard to his having been corrupted by the use of money or promises to testify in this case?

Mr. WILSON. No, sir; I have no questions to ask him on that subject.

Mr. LINES. Mr. Chairman, will you now put the question?

The CHAIRMAN. Whether he has been?

Mr. LINES. Whether there has been any offer.

The CHAIRMAN. Of course I will put it if you desire it, but I would not put it of my own motion. I must assume that the witness is testifying without motive until the contrary appears.

Q. I will ask you, as it has been suggested, has any inducement been held out to you or any promise of payment, or any consideration or reward, for coming here to testify in this matter?—A. Yes.

Q. What is it?—A. From the Sergeant-at-Arms, saying that I will get my mileage and \$3 per diem.

Q. That is all?—A. That is all.

Q. Are you in need of that amount of money?—A. No, sir.

Q. Could you leave your business to come here for the sake of testifying for witness fees?—A. I would not have come for \$50 a day.

By Mr. WILSON:

Q. Then I will ask you if you have had any correspondence with anybody in relation to this case, other than Mr. Foster and Mr. Lines and the Sergeant-at-Arms?—A. No, sir.

Q. Have not had any correspondence except with them?—A. Not at all.

Q. And I will ask you how many letters in all you have had from them?—A. I had one telegram from Mr. Lines, dated New Orleans, I think. I have had—

By the CHAIRMAN:

Q. When was that?—A. That was before Christmas. I have had a letter from General Foster, stating that he had been out of the country into Mexico, and had not received my answer or telegram that I would appear if summoned by the Sergeant-at-Arms. I had two or three telegrams from the Sergeant-at-Arms—yes, four—one in Trenton, telling me that the committee were waiting for me to appear in reply to a telegram of mine asking if I was needed right away.

(At 2.15 the committee took a recess of half an hour, and upon re-assembling Senator Dolph took the place of the chairman (Mr. Morgan), who was not present during the remainder of the session.)

By Mr. WILSON:

Q. Captain Dahlgren, what was the trouble between La Abra Company and the authorities?—A. O, I was not there, sir. I didn't know anything about it.

Q. Well, you say in your examination in chief—

I know that there has been some trouble between the company and the authorities

A. Yes, sir.

Q. What was it?—A. Well, that is all that I know about it.

Mr. FOSTER. Where are you reading from, judge?

Mr. WILSON. I am reading from page 652.

The WITNESS. I had heard General Adams speak of some trouble between the company and the authorities.

By Mr. WILSON:

Q. You heard General Adams speak of it?—A. Yes.

Q. Did you know nothing about it then?—A. No, sir; I was not there. It was several years before I came there.

Q. Well, Colonel Foster put this question to you—

Q. What I have read is: "The local authorities of San Dimas claim that the Mexican Government owns that property, and they have sold and leased some parts of it."

That is a quotation from your deposition. Then he asks—

What did you testify?—A. I referred him to my correspondence with Judge Cipriano Quiroz de la O.

Q. And Colonel Foster says—

Q. We will come to that in answer to another question.—A. That was my reply. I referred him to my correspondence with that judge.

A. Yes, sir.

Q. Where was that correspondence with that judge?—A. There it is. [Exhibiting it.]

Q. That is it?—A. Yes.

Q. What page is that?—A. Page 112.

Q. Of what?—A. Of Ex. Doc., first session Forty-ninth Congress, No. 274.

Mr. FOSTER. He produced that correspondence on page 657 of his testimony before the committee.

By Mr. WILSON:

Q. Well you say you referred him to your correspondence with that judge?—A. Yes.

Q. Then Colonel Foster asks you—

Q. Did you know at that time, or do you know now, that the local authorities of San Dimas claim that the Mexican Government owned that property?—A. I know that there has been some trouble between the company and the authorities.

A. Yes.

Q. (Reading:)

I supposed that they were the local authorities; and when I asked permission of the judge to take away such of the things as I wished, he sent me down a letter which here is correct.

A. Well, as I say, all that thing is printed here—the correspondence between the judge and myself, occupying several pages.

Q. Well, but you say you know there has been some trouble between the company and the authorities?—A. Yes.

Q. I want to know what the trouble was. What was the trouble between the company and the authorities?—A. Each one claimed that the fault was due to the other one.

Q. Well, what do you know about Granger having denounced this Rosario mine?—A. I don't know that; that Granger denounced.

Q. Well, you testified that he had denounced the Rosario mine.—A. He had, and this man Calderon had denounced some mines. I have stated that the Arayan was one of the mines denounced.

Q. Well, you testified in your original deposition that Torres was working the Rosario mine under a denouncement in the name of Granger.—A. Yes.

Q. Very well.

Mr. LINES. Now, Mr. Chairman, I object to the question of counsel in that form. The witness has repudiated the paper which purported to be his deposition before the commission and I do not think that that is the proper form to secure an answer from him. He has answered yes in response to a question which assumes that he did testify to something in that deposition. He has repudiated it entirely.

By Mr. WILSON:

Q. I will put it in a different form, then. This deposition reports you as having testified that Granger had denounced the Rosario mine and it was being worked under that denouncement by Francisco Torres. This deposition reports you as having testified to that as a fact. Was that the fact?

Mr. FOSTER. That Torres claims to work it under a denouncement of Mr. Granger; is that the construction?

Mr. WILSON. Oh, no.

Mr. FOSTER. Well, if you will read it we shall see.

By Mr. WILSON.

Q. The deposition which you repudiate contains this, which was read to you by Colonel Foster:

I know, too, that a Mexican citizen, whose name is Francisco Torres, and who is now, and has been for the past year and more, the occupant of said haciendas and mining property and machinery of said company, claims ownership of the same; and that he works the mines of claimant successfully, by "Patio" process, a part of them

under a "denouncement" made of the "Rosario" mine in the name of one Granger, an Englishman; and although the denouncement is said to legally cover only one of the principal mines of said company, "El Rosario," which is probably the richest and most valuable of them all, he, nevertheless, works some of the other mines of said company in "Bonanza," and claims to own them all, as he told me when I was there but a few months ago.

Now, that is what the deposition purports to make you say.—A. Yes.

Q. Well, I want to know now whether you dispute the accuracy of that statement?—A. What page is that?

Q. That is page 653. Do you say that you did not testify to that in that deposition?—A. Will you read me the answer?

Q. No; and I did not ask you to take that book simply to repeat what is there.—A. Well, you are repeating what I said.

Q. I know; I am repeating a part of your deposition as it appears to be.—A. Well, my answer now is what I said there.

Q. Yes; you take the book now.—A. Yes. [Reading:]

I believe I did. A mine in Mexico, when it is not worked, is subject to denouncement, and I knew that people had denounced it; but I don't think that they ever did much of it, and if they did it was only with loss to themselves.

Q. I want to know now if you say you did not testify to what I have read to you?—A. I have said so several times.

Q. To that particular part of it?—A. That is simply a part of that testimony which purports to be my testimony.

Q. Oh, now, that is not the point at all, Mr. Dahlgren; I am calling your attention to this particular part. Did you testify to that before Sisson?—A. No; I did not.

Q. You did not testify to that when your deposition was taken?—A. In 1872?

Q. Yes.—A. No, sir.

Q. Then why do you say, "I believe I did"?

Mr. FOSTER. Well, in answer to that question—

By Mr. WILSON:

Q. Oh, hold on—

Did you testify to anything as to the denouncement of the Rosario mine by Granger?—A. I believe I did.

It is the answer to that point. Well, please lay your book down, Mr. Dahlgren, and tell me what you did testify to before Sisson at the time your deposition was taken in response to the question.—A. I did not testify before Sisson. I have said that repeatedly.

Q. Well, that is merely a play on words.—A. Yes.

Q. At the time you gave this statement of your own, which you say was taken down in rough notes— A. Yes.

Q. State what you did say about that matter at that time. Just leave that book for the present, please. What did you state?—A. I said (pausing)—

Q. We are awaiting your answer.—A. Yes. I can only repeat what I said there, that "I believe I did," and then I—

Q. Hold on; you have not answered my question. I ask what you did state when the question was put to you and your testimony was taken down in rough notes? What did you state?—A. I stated that Francisco Torres was working the mine or mines spoken of here, and that he did it under a denouncement which every one has a right to do in Mexico if the mine is abandoned.

Q. So you did state that Torres was working this under a denouncement?—A. Yes.

Q. Now, a denouncement by whom? Did you state?—A. Oh, I do not know whom.

Q. Well, did you state anything as to who did do it?—A. No, sir; I did not.

Q. Can you remember you did not?—A. I can, because I knew nothing about who had denounced it except that it was an abandoned mine and that he and Granger had tried to induce me to take hold of those mines, and that also he and Calderoon had denounced the Arrayan, belonging to the company, and then tried to induce Janin to take hold of it, and that neither of us took hold of it.

Q. Do you mean to state that that is what you said down there when your deposition was taken?—A. Yes.

Q. Well, you have said here in reply to General Foster that you believed you did state that Granger had denounced that mine; is that correct or not; if it is not correct, I want you to make it correct.—A. No, I did not say that Granger—

Mr. FOSTER. The question was not to that effect; did he testify to anything as to the denunciation?

By Mr. WILSON:

Q. Yes; "did you testify as to anything as to the denouncement of the Rosario mine by Granger," and you say, "I believe I did."—A. No; I do not know that Granger denounced the mine, but that Francisco Torres was working it.

Q. But you say, in reference to Granger, that you believe Granger did denounce the mine. Now, do you want to correct it?—A. If you want my answer this is what I say: That Francisco Torres was working that mine under a denouncement. It may have been by Torres or it may have been by Granger.

Q. I am not asking what your knowledge or present recollection of it is. I am asking what you stated when your testimony was taken in the rough notes.—A. That Francisco Torres was working the mine under denouncement.

Q. And did not you state it was under a denouncement by Granger?—A. No, sir.

Q. Then you were mistaken in your answer to Colonel Foster?—A. I do not understand the question "by Granger."

Q. Well, it is there, nevertheless; do you want to correct it?—A. Yes, I do.

Q. So that your statement as recorded in answer to Colonel Foster now you say is incorrect?

Mr. FOSTER. It is not inconsistent with his present declaration.

Mr. WILSON. Let the witness take care of himself. Don't bother him.

Q. Now, if you will close up that book—A. Well, I will answer the same, "I believe I did."

Q. You believe you did say that it was denounced by Granger. Is that the way you want to leave it stand now? Do you wish it to stand that way?—A. I am perfectly willing to allow it to stand just as it is there—my answer "I believe I did," and that the mine was not worked, and was subject to denouncement.

Q. Was this question put to you at the time that these rough notes were made, as you call them:

Are you or not a son of the late Admiral Dahlgren, of the United States Navy, and are you consul of the United States for the State of Durango, Mexico, lawfully appointed and confirmed, and as such recognized by the United States and Mexican authorities?

Was that question put to you?—A. It was.

Q. What was your answer to it?—A. "I am," and nothing more and nothing less, and not the long answer that it is on the record.

Q. That is all you said?—A. That is all: "I am."

Q. Well, was this question put to you:

Do you know, and have you visited and examined the mines, haciendas, and the late works and improvements of "La Abra Silver Mining Company," claimant in this case?

Was that question put to you?—A. Yes.

Q. State your answer to it, if you made it, taken down in the rough notes.—A. I told General Adams repeatedly—

Q. No; I want to tell you I don't want you to say what you said to General Adams. State what your answer was to that question.—

A. That I knew about the hacienda from one end to the other, because I had torn it down; that the mine I was not posted upon.

Q. Was that your own answer made then?—A. Or words to that effect; yes.

Q. Now, if you answered any more fully than that, state what your answer was.—A. I do not recollect; words to that effect; because I had not been in the mines and knew nothing about them, with the exception of the piles of ore from the arrayan.

Q. Well, I am not asking your reasons.—A. I answered "I am," or words to that effect.

Q. Was this question put to you:

Where are said mines and property situated, and of what did said improvements of claimant consist, and in what condition are they now?

Was that question put to you?—A. Yes.

Q. Now, then, what was your answer?—A. I told him that La Abra mines were situated in Tayoltita, and that the improvements consisted of a mill and hacienda.

Q. Was that all your answer?—A. Yes, sir.

Q. Do you recollect that answer as you have now given it?—A. I also told him that I had not been in a mine of this company. Therefore I could not tell him anything about that.

Q. Well, do you make that a part of your answer to that question?—A. Yes.

Q. You recollect that now, do you?—A. Yes; I recollect it.

Q. Yes; was that all you answered him?—A. That is all I recollect now, and I do not think I said more because all my answers were short and not the voluminous answers which are imputed to me.

Q. Was this question put to you:

Who claims ownership of the said mines, haciendas, machinery, stamp-mill, and other improvements of said "Abra Company;" or, if you know, state who, if any person, assumes or exercises the right to dispose of the said property of claimant, either by absolute sale or by leasing out the same for use in other places than Tayoltita, and without authority to do so from claimant in this case? Will you please state all you know in relation to any such sales or lease of the mining tools, machinery, or the stamp-mill of said company, or any part of the same, giving names, dates, and circumstances so far as you can recollect them?

Was that question put to you?—A. Yes.

Mr. FOSTER. Let me interrupt a moment. Do you mean to ask these exact words or the substance of it?

Mr. WILSON. Let me ask the question. I am conducting the cross-examination.

Mr. LINES. I want the witness to understand it.

By Mr. WILSON:

Q. I want to know whether that question was put to you?—A. Yes, I believe that question was put to me.

Q. You recollect that, do you?—A. Yes.

Q. Do you recollect your answer?—A. Yes, about the mines. I knew nothing of the ownership, but about the mill I did know, because it was I who took it down and moved it over.

Q. Well, is that all you answered?—A. That is all I answered.

Q. Now you recollect that question was put, and you recollect now that this was all the answer you made?—A. Yes, all I knew about it.

Q. You did not answer any further in respect of that question than you have now stated?—A. Only from hearsay, which you have objected to all the time.

Q. No, no; I am not asking about hearsay. I am only asking what you said at that time?—A. Yes, that is all.

Q. Now, that is all you stated, is it?—A. Yes.

Q. Was this question put to you:

Did said Judge Quiros receive from you any money or other thing of value for executing said bill of sale or paper obligation authorizing you to take down and make use of said company's stamp-mill, tools, and machinery?

A. Yes; that was asked, most distinctly and emphatically, and answered.

Q. Well, that question was asked you?

Mr. FOSTER. What page is that?

Mr. WILSON. Page 403 of his testimony in the book of testimony.

Q. Now, that question was put to you when these rough notes were being made, was it?—A. Yes; that was.

Q. And you answered it?—A. I did.

Q. Well, tell what your answer was.—A. I told him that I had never paid Judge Quiros any money and that I had never given him the rations which are imputed to me in that testimony, and referred him to my correspondence with the judge.

Q. You told him, you say—I am calling on you now for your answer that you made there at that time at the consul's at Mazatlan, when your deposition was given. Never mind your book there, please. Now, remember the question that was put to you, and I want you to give the answer that you gave on that occasion?—A. Well, I have stated.

Q. Now, the answer that you have stated here is the answer that you made there?—A. Yes.

Q. You have not any doubt about that, have you?—A. None in the world.

Q. None in the world. That is all right. Was this put to you?

Will you now please present to the consul the written obligation referred to as having been executed by Judge Quiros, selling or leasing for use said property of claimant, in order that a certified copy may be taken by the consul and filed with this deposition at Washington?

Was that put to you?—A. Yes.

Q. Did you make any answer to it?—A. I did.

Q. Well, what was it? Now, I want you to state just what your answer was?—A. I did not have the testimony with me, but Adams had it, and I referred him to that testimony.

Q. Testimony?—A. That correspondence between us.

Q. And that is all that you said, then, was it?—A. Yes; I answered that in that manner.

Q. I wish you would just state how you did answer him?—A. I referred him to the correspondence between Judge Quiros and myself.

Q. Was this question put to you ?

Did you, when at Tayoltita, observe the piles of silver ores on the patios of the company, so as to be able to state the quantity and value of the same ? If so, state it.

Was that put to you ?—A. Yes.

Q. Well, what was your answer ?—A. I stated that there was a large quantity of ore there which I had sampled and it went \$13.50, or words to that effect.

Q. Well, was that all your answer ?—A. That was the sum and substance of my answer.

Q. Did you make any further answer than that ?—A. I do not recollect.

Q. Don't you remember what you did say in answer to that question ?—A. That was the sum and substance of it.

Q. Well, will you say that that is all you said in regard to it ?—A. Will you read my answer, please ?

The stenographer read the answer as follows :

I stated that there was a large quantity of ore there which I sampled, and it went \$13.50, or words to that effect.

Q. Is that all ?—A. That is all I recollect.

Q. That is all you can remember, you say ?—A. All I can remember.

Q. Were you interrogated as to whether "Marcus Mora or other Mexican authorities were enemies to the La Abra Silver Mining Company ?"—A. Yes.

Q. Were you interrogated about that ?—A. Yes.

Q. Do you remember what you said in reply to it ?—A. That I did not know these men personally and that I did not know of—I told him my answer was that I did not know those gentlemen and did not know what they had done.

Q. That was all your answer, was it ?—A. That was the sum and substance of my answer.

Q. Was this question put to you :

How many foreign companies were there doing business in mining in San Dimas district in 1866 and 1867, and how many are now left in the district of San Dimas ?

A.—Yes, that was put.

Q. And was this further inquiry—

Is there any at all except the Durango Company, which you represent as superintendent ?

was that asked you ?—A. Yes, sir.

Q. What did you answer ?—A. I answered that the Durango Mining Company—that there was the Durango Mining Company, and that it had been in existence a long while, and that there were other American companies or German or foreign companies.

Q. You answered there were other foreign companies ?—A. Yes.

Q. Did you answer that the Durango Company was the only American company left there at that time ?—A. In San Dimas ?

Q. Yes.—A. Yes.

Q. You did answer that ?—A. Yes. There was a German company at La Puerta, right near us, and another foreign company just below us.

Q. Yes, but you see, captain, the question was put to you. You said that the Durango Company was the only American company left.—A. The only American company left.

Q. Now, there had been a large number of American companies in there, had there not.—A. No, never a large number.

Q. Well, how many were there ?—A. There had been La Abra Com-

pany and the Durango Company were two, and there had been a company down at La Puerta—an American company smashed up, as La Abra had—and those are the only three American companies that I knew of, and then there were two Germany companies, if they can be called companies. Still they were Germans or Austrians.

Q. Were you asked the question whether you had heard of threats being made by Judge Milan and by Judge Quiros, who succeeded him in the office as chief magistrate of the district of San Dimas?—A. Yes; I was asked that.

Q. What was your answer?—A. That I had heard it from General Adams.

Q. That is all—you heard?—A. Yes.

Q. That is all your answer?—A. That was my answer; yes, sir.

Q. From whom did you purchase this La Abra property that you took away from there?—A. I took it.

Q. Just went and took it?—A. I took it; yes.

Q. Did not buy it from anybody?—A. I paid no money for it, sir.

Q. By what authority did you take it?—A. I applied to Judge Quiros for permission to take it and he denied me, and Granger said: "If he does deny you I will allow you to go over and take it;" and I did go over and take it, and that is what I did.

Q. You just went there and carried away property that did not belong to you?—A. No, sir; I had permission from Granger to do it.

Q. Where was Granger at the time?—A. In my employ as book-keeper.

Q. How long had he been in your employ?—A. A year and a half.

Q. Where had he been employed?—A. He had been employed by La Abra Company.

Q. No, no; he had been two years in your employ?—A. In my employ; yes.

Q. During the two years he was in your employ where was he; was he at Tayoltita or Durango, or where was he?—A. He was in my hacienda except such times as he went over to Tayoltita.

Q. Well, your hacienda was where?—A. It was 10 miles from Tayoltita.

Q. How much of the time was Granger employed with you?—A. Five years and two months.

Q. How much of his time was occupied in your employment?—A. He was my book-keeper—how much time did he stay there?

Q. Yes; he was there constantly, was he not?—A. He was there constantly, except such times as he went over to Tayoltita.

Q. Did he live at Tayoltita?—A. I do not know. When he left the hacienda I do not know.

Q. How long would he stay at Tayoltita when he went over there?—A. His woman lived over there, and he would sometimes stay two or three days, sometimes a week.

Q. Who was his woman?—A. This Cecilia, who is mentioned as one of the witnesses.

Q. What was her father's name?—A. I do not know.

Q. Soto?—A. I have not the least idea who her father was. I do not know now.

Q. Well, he went over there to see his woman?—A. Yes.

Q. He did not go over to look after La Abra Company's business?—A. I did not ask him.

Q. Well, he was in your employ?—A. He was.

Q. And how long had he been in your employ before he authorized

you to go over and take this property?—A. I came in July, 1870, and I think this was along in the fall of 1871.

Q. How long after you went there did you employ Granger?—A. I found him there.

Q. Where, at Durango?—A. No.

Mr. FOSTER. San Dimas is the place.

By Mr. WILSON:

Q. I know at San Dimas—you found him at San Dimas when you went there?—A. Yes.

Q. And do you know in whose employ he was when you went there?—A. I only know from hearsay.

Q. Well was he in the employ of your company?—A. I do not know.

Q. Was he at work in the office of your company?—A. I could not tell that.

Q. When you went there?—A. When I went there I found him there.

Q. What was he doing?—A. I do not know.

Q. Was he keeping the books of the Durango Company?—A. No, sir; not that I know.

Q. Well, what was he doing?—A. I told you I did not know.

Q. Well, how soon did you take him into your employ? You found him there?—A. Immediately upon my arrival.

Q. Did you change his employment in any way?—A. No, sir; I did not. It was over three months after I was there that I took him in my employ.

Q. Well, he was there working for the Durango Company, was not he?—A. I do not know.

Q. Who was keeping the books of the company when you went there?—A. I could not say that; I did not know.

Q. Well, who kept the books of the company during the first three months after you went there?—A. Ralph Martin. I was there three months with my predecessor before he left.

Q. And Ralph Martin was your predecessor?—A. Yes.

Q. And who kept the books for Ralph Martin?—A. He kept his own books, and I kept my own books. We started in to wind up the business. It took him three months to wind up, and I started in with my own expenditures.

Q. Well, I want to know whether Granger was doing anything for that company when he went there?—A. I do not know, I tell you most distinctly.

Q. Did you see him there?—A. I did see him there.

Q. Was he about the hacienda all the time?—A. No, sir.

Q. Where was he?—A. Sometimes in town; sometimes in Tayoltita. When he was out of the hacienda I did not know where he was.

Q. But after you had been there three months you put him in as book-keeper?—A. Yes; I took him in.

Q. And after he had been in your employ about a year, when Quiros had refused you the right to take that property, you got your authority from your employé, Granger, and you went over and carried it away?—A. Yes.

Q. And that is the way you got possession of it?—A. Yes.

Q. But did you leave any La Abra Company's property there that was of any value?—A. Oh, yes; I did not take it all.

Q. You simply took what would suit your purpose?—A. That is all. I took the wheel. I had my own batteries and mortars and pans, but

I took the water-wheel and I took the retorts and I took some other smaller pieces of machinery.

Q. And do you know what they were worth?—A. Yes, of course I know.

Q. Well, what was the wheel worth?—A. The iron of the wheel—because I had to make the greater part of the wooden work anew—the iron of the wheel was worth about \$500; might have been worth there about \$1,000.

Q. Did you take it to pieces?—A. I took the wheel to pieces. Took the iron over and carried such of the arms as were good—as were not rotted—and made new arms.

Q. In other words, you took of this La Abra property, just such as you wanted, to fix up your own mill?—A. Exactly.

Q. And now who did you pay for it?—A. I gave a document to the effect—it is here printed—that whenever the representatives of that property came forward and demanded it, that the Durango Mining Company would pay whoever came forward and claimed that, and nobody ever did come forward or claim it, and I gave it to the judge and it is here printed.

(After a pause in the proceedings.)

MR. FOSTER. We want to know at this stage just how far counsel are to be allowed to go in the matter of correspondence which they attempt to develop here between attorneys of the Mexican Government and witnesses?

MR. DOLPH. I do not see that the committee can make any decision until some question is put to which objection is made or which is objectionable itself.

MR. FOSTER. We have not been very particular in this matter heretofore, as is illustrated by the fact that we have allowed counsel for claimants to produce an original letter of Mr. Lines to the witness, and then, after seeking to impeach the witness, to prove a part of a copy of a letter which it is alleged Mr. Lines had written to the witness. I call attention to that fact to illustrate that we have not been very particular on that subject heretofore. I have no objection to the present letter being read. It is there for your use. This is a letter that I wrote recently to the witness.

MR. DOLPH. Well, as the matter now stands, I understand the cross-examination is closed.

MR. FOSTER. No. Judge Wilson asked for the letter and that letter is here, and I have no objection to the reading of it.

MR. DOLPH. No, I do not understand counsel to have asked for it at present.

MR. WILSON. I told Mr. Foster that I was through, except that I wanted the witness to produce that diary which he used in his examination in-chief and which he did not have here on his cross-examination, and therefore I could not examine him about it.

MR. FOSTER. I think you spoke of a letter.

MR. WILSON. I also asked him to produce that letter.

MR. FOSTER. I do not object to that letter being read. I dislike very much when a letter of mine is presented to the committee to object to it. I say, I am very willing that that letter shall be read if it is called for, but I want to give notice that we are not going to allow an indiscriminate proceeding of this kind to go on without some limit in the future. If counsel want that letter, and call for it, I make no objection.

MR. DOLPH. It is for the counsel for the company to say whether they will make any use of the letter. If counsel for Mexico desire to submit

it themselves, if it is not used by the counsel of the company, of course that is another question, and so far as any other letters are concerned, there will evidently be no ruling unless the letters are called for and objection is made.

Mr. WILSON. I ask for the diary and the production of that letter.

Mr. LINES. Have you got the letter and don't want to put it in; is that it?

Mr. WILSON. I have not seen it, and under the circumstances—

Mr. DOLPH. Does not the counsel for the company now ask that there shall be a postponement of the further examination of their witness until the diary is produced?

Mr. WILSON. Yes; I want to see that diary, because he used that diary in his examination-in-chief.

Mr. DOLPH. Well, I will suggest, as it will probably be passed upon by Senator Morgan, who is familiar with the previous examination, it is not necessary to present the testimony to me or proceedings which have already been taken. Do you wish to go on with the redirect examination?

Mr. FOSTER. I want them to finish first.

Mr. DOLPH. Very well, then, this hearing will be adjourned until 10 o'clock to-morrow morning, the 9th instant, when probably Senator Morgan will be present.

Mr. WILSON. But Senator Morgan said before you came in that we would undoubtedly have the right to examine that diary.

Mr. FOSTER. If the diary were presented to-day we would accept Senator Morgan's ruling to the extent that he has ruled.

Adjourned.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 9, 1889.

The subcommittee met pursuant to adjournment. Present, Senator Morgan (chairman), Messrs. Hon. John W. Foster and Mr. Robert B. Lines, representing the Government of Mexico.

Mr. FOSTER. Mr. Wilson has sent word that he is not able to be present and that he waives the examination in regard to the diary.

The CHAIRMAN. That closes the examination, then?

Mr. FOSTER. We want to ask a few questions suggested by Judge Wilson's examination—the cross-examination. I notified the young gentleman who brought the word from him that we would endeavor to confine ourselves to matters brought out by his cross-examination.

The CHAIRMAN. Well, I will take what the witness has to say in reply to your questions.

Mr. FOSTER. Subject to his objections.

The CHAIRMAN. Subject to his objections. I don't want to keep the witness here.

TESTIMONY OF CHARLES B. DAHLGREN—Recalled.

CHARLES B. DAHLGREN, examination resumed.

By Mr. FOSTER :

Q. Captain, Judge Wilson asked you in reference to what occurred at the hacienda at San Dimas when General Adams was examining persons during his visit to the hacienda. I want to ask you if there

was any authority, or judge, present during those examinations?—A. No, sir.

Q. Were you fully commissioned as consul of the United States at that time?—A. I was.

Q. Were you authorized to take depositions?—A. Yes, sir; and did on other occasions.

Q. Did General Adams ever apply to you to have depositions taken before you as consul?—A. No, sir.

Q. Was there any reason why you could not act in that capacity at that time?—A. None, sir.

Q. Judge Wilson has read to you questions from the deposition on file in the Department of State, and has asked you whether such questions were propounded to you at Mazatlan; in some cases your answer was that they were. I want to ask you whether you mean to say that the exact words of these questions were put to you, or that that was the substance of the questions?—A. I replied, if I recollect right, in several instances, "or words to that effect" to the question. I would say, after the lapse of seventeen years, I could not—I would not like to swear that they were the exact words, but that was the substance of what he asked me.

Q. And you did not mean to say in your affirmative answer to his question that they were the exact words used?—A. No, sir; I would not say that they were *verbatim et literatim*.

Q. He asked you the cause of your leaving Mazatlan on the day you gave that testimony, what purports to be your deposition, and you stated that there were financial reasons that called you away.—A. Yes, sir.

Q. I want to ask you whether you left upon the general information you had, or whether you had any special reason at that time for returning so promptly?—A. The courier came in that morning from San Dimas with the mail and brought me a note from my right-hand man, Mr. Storck, telling me to come back immediately.

Q. That was the special reason?—A. Yes, sir; the special reason for leaving so abruptly.

Q. When you were sworn by the consul, what did you understand you were swearing to; I mean at the time you took the oath before the consul, at the time you signed, as you stated, the blank sheet of paper?—A. I understood that I was swearing to the deposition that I had given to General Adams, and which had been corrected, and which was to be transferred to those blank sheets of paper, for which I had signed a blank sheet in the middle; the deposition as I had given it to General Adams, corrected and revised.

Q. It was to that that you understood you were taking the oath?—A. Yes, sir.

By Mr. LINES:

Q. Captain, you were asked yesterday as to Matias Avalos, your body servant?—A. Yes, sir.

Q. As to his character, etc., and whether you considered him reliable, truthful, and you replied that you did; do you know that Avalos testified in this case before Consul Sisson, or rather, do you know to what he testified?—A. No, sir.

Q. So that in your answer your answer was made without any knowledge as to the deposition—any deposition that might appear to have been given by Avalos?—A. I don't know—I don't recollect of his testifying, and, if he did, I don't know what he testified, or what he was asked.

Q. Do you recollect whether or not you witnessed his signature to a document while you were there?—A. I don't recollect.

Q. At that time?—A. I don't recollect.

Mr. FOSTER. That is all.

The CHAIRMAN (to the witness):

Q. I want to ask you one question. Who was the notary or official before whom the depositions were taken at San Dimas, in this case?—A. I did not see any notary or justice of the peace.

Mr. FOSTER. Senator, it does not appear from the record that any deposition on file was ever taken at that place, at San Dimas; they appear to have been taken at other places—at the city of Durango, and at Mazatlan.

Mr. LINES. The allegation is made that the witnesses were afraid to testify, that they would have been interfered with by the judge at San Dimas, and that, for that reason, they were examined at Mazatlan.

By the CHAIRMAN:

Q. Did you observe any or hear of any intimidation by any judicial officer there?—A. No, sir. There could not have been, for they were taken at Mazatlan, and none of the authorities would have come to Mazatlan to intimidate. I mean, so to speak, that he held court in rooms, and Adams held court—

Q. He had his prothonotary there?—A. Yes, sir.

Q. He took down, as I understand, memoranda of what they testified to?—A. Yes, sir; they examined them and wrote it down.

Q. They were not sworn to or certified to at San Dimas at that time?—A. No, sir; or I would have known of the justice of the peace.

Q. Can you name the witnesses that were thus examined?—A. I can not, except Mr. Granger.

Q. Was Avalos examined there?—A. Yes, sir.

Q. Any one else?—A. No, sir; I saw a number of people there, probably fifteen or twenty, many of whose names—Torres was also in hacienda.

Q. Francisco Torres?—A. Yes, sir. I don't know as he was examined, but those interested in it came down.

Q. Was any memorandum taken at the hacienda as to what your testimony would be?—A. No, sir. He asked me—he had a conversation with me that first evening, and I did not know what I was there for, and I stated my opinion very freely.

(Mr. Crammond Kennedy, representing La Abra Silver Mining Company, here appears before the committee.)

(The witness, continuing, said:) And I think from what I said that it was not the testimony he wanted, so that he didn't ask me that.

By Mr. LINES:

Q. I want to ask one question, captain; where does your military title come from?—A. I was in the Navy, and asked to be transferred to the regular Army, and was transferred to the Seventeenth Army Corps, and served all through the campaign of Vicksburg, Arkansas Post, New Orleans, as first lieutenant of the battery, division signal officer, and other staff duty, and when I got out of hospital I was sent to Charleston, and also served under Admiral Lee as ordnance officer of the North Atlantic Blockading Squadron, etc.

By the CHAIRMAN:

Q. You held the brevet rank of captain on the staff?—A. Yes, sir.

The CHAIRMAN. General, anything further ?

Mr. FOSTER. Nothing further at present.

The CHAIRMAN. Mr. Kennedy, do you wish to ask any questions ?

Mr. KENNEDY. Yes, sir; there are one or two questions I would like to ask. As I was absent necessarily while the witness was testifying, I respectfully request that the chairman have the stenographer read from his notes the testimony taken in my absence.

The CHAIRMAN. The stenographer will read the proceedings.

(The stenographer read the proceedings as requested.)

By Mr. KENNEDY :

Q. You stated that your relations with Avalos were confidential, did you not ?—A. Yes, sir; he was my trusted man.

Q. And you had some conversation with him in regard to testimony he had given some time previously in this case ?—A. Yes, sir; previous to this; that is, previous to this interview.

Q. Previous to September, 1872, when you were examined before Consul Sisson ?—A. Yes, sir; it was between the visit of Adams to San Dimas and my interview with Adams in Mazatlan; in other words, between June and September.

Q. Now, can you refresh your recollection as to what Avalos told you in regard to the trouble which you said he apprehended from having given his testimony ?—A. As I told you, those people in law matters are very timid, and he told me that he had—that they had asked him to give testimony, and he had done so.

Q. Who had asked him ?—A. I did not know; I do not know who asked him; that he had given testimony, and wanted to know if any trouble would come of it.

Q. Didn't he tell you further he had given testimony at the request of General Adams ?—A. No, sir.

Q. Or at the request of the Mexican Government ?—A. No, sir. He didn't say who had asked him. I don't know that he knew.

Q. Now I think you said that you arrived at Mazatlan on the 3d of September, 1872. Am I right in that ?—A. Yes, sir.

Q. And that you remained until the afternoon of the 18th of the same month ?—A. Of the 18th; yes, sir.

Q. Now I think you testified also that you were in and out of the consulate constantly.—A. Oh, I don't say constantly, but of course we met together at the consulate; we were out on the Olas Altas in the evening, and we met frequently, and I often went in there and out, but I don't recollect how many times.

Q. Have you no recollection of Avalos' telling you that he first testified on behalf of La Abra Company, and then that he was afterwards summoned before a Mexican judge and examined on behalf of the Mexican Government ?—A. I have no recollection of any such thing.

Q. Now, captain, have you no recollection whatever of an examination of Avalos before Consul Sisson between the 3d of September and the 18th at which you were present ?—A. I have said before that I have not.

Q. Have you since you came here examined the deposition of Avalos which was taken between those two dates ?—A. I have not.

Q. So that you can not say now whether it is your signature that is appended to that examination as witness from any examination that you have made of your signature upon that deposition ?—A. No, sir; I have no recollection of anything of the sort. I have often been asked by responsible people to witness a paper and I have signed it as a witness, and people whom I knew—

Q. What I am trying to get at is whether, applying your mind with your best ability back to the time when you were at Mazatlan, when you were examined, when this faithful "mozo" of yours was there, and when he told you of the trouble that he apprehended—I want to know whether, applying your mind to all those circumstances, you can swear positively now that you have no recollection of the fact that this man Avalos was examined before Consul Sisson in your presence, and that you signed his deposition as a subscribing witness; I want your best recollection.—A. I told you, and I tell you again, that I don't recollect.

The CHAIRMAN. That ought to be an end of this.

Mr. KENNEDY. I think so, too, Mr. Chairman. I came in here, not knowing what was gone over on the cross-examination, and my questions have simply been suggested to me by the redirect that was read to me by the stenographer.

The CHAIRMAN. Yes; we confined ourselves to the redirect examination. I only extended the privilege to you, Mr. Kennedy, because you were not here on the redirect examination. That closes this witness. The matter will go over until what time?

Mr. FOSTER. Monday?

The CHAIRMAN. Monday at 10 o'clock.

Mr. FOSTER. Mr. Chairman, I want to place in evidence the annual reports of La Abra Silver Mining Company for the years 1866, 1867, 1868, 1877, and 1878. I will state that they were sent to the committee at the same time that the letter-book was sent by the secretary of state. I obtained them from the clerk of the committee for the purpose of now filing them.

The CHAIRMAN. Those documents were before the commission?

Mr. FOSTER. No, sir. They are documents that have been submitted by the Mexican Government to the secretary of state when the examination was had, but they have never been formally put in testimony here.

The CHAIRMAN. Is there any objection to that?

Mr. KENNEDY. I suppose these are certified?

Mr. FOSTER. They are certified copies by the secretary of state of New York State.

The CHAIRMAN. O, yes.

Mr. FOSTER. Certified under the statute.

The CHAIRMAN. Put them in.

The reports read as follows:

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye, That we, having examined the records and files in the office of the clerk of the county of New York, do find a certain annual report of La [SEAL.] Abra Silver Mining Company there remaining, in the words and figures following, to wit:

Annual report of La Abra Silver Mining Company made this 16th day of January, 1866, as required by law, as follows:

The capital stock of said company is three hundred thousand dollars, say \$300,000 dividend shares of \$100 each.

The amount actually paid in is seventy-six thousand dollars, say \$76,000.

The company have issued in payment for La Abra silver mine, twenty-two thousand dollars of stock of the company, say \$22,000.

The company have no indebtedness ascertained.

WM. L. HEARN, *President.*

LEWIS MORRIS,

WESTON A. BIRCH,

D. J. GARTH,

S. P. NICKOLLS,

H. P. BENNET,

Trustees.

CITY AND COUNTY OF NEW YORK, ss :

William L. Hearn, being duly sworn, says that he is the president of La Abra Silver Mining Company above named, and that the foregoing report by him and others subscribed is correct and true.

WM. L. HEARN.

Sworn to before me January 17, 1866.

JOHN M. SCRIBNER, Jr.,
Notary Public.

[U. S. int. rev. stamp, 5 c. Canceled.]
Indorsed: Filed January 18, 1866.

All which we have caused by these presents to be exemplified, and the seal of our said county to be hereunto affixed.

Witness Hon. Charles P. Daly, presiding judge of our said court of common pleas for the city and county of New York, at the court-house in the city of New York, the 14th day of November, in the year of our Lord 1878, and in the 103d year of the Independence of the United States.

HENRY A. GUMBLETON,
County Clerk.

I, Charles P. Daly, judge and presiding judge of the court of common pleas for the city and county of New York, being the court of the county of New York in the State of New York, do hereby certify that Henry A. Gumbleton, whose name is subscribed to the preceding exemplification, is the clerk of the county of New York, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal of the said county of New York and that the said attestation thereof is in due form of law and by the proper officer.

Dated New York, November 14, 1878.

CHAS. P. DALY.

STATE OF NEW YORK,

City and County of New York, ss :

{ SEAL. } I, Nathaniel Jarvis, jr., clerk of the court of common pleas for the
{ J. F. M. } city and county of New York, do hereby certify that Charles P. Daly, whose name is subscribed to the preceding certificate, is a judge and the presiding judge of the court of common pleas for the city and county of New York, duly elected and qualified, and that the signature of said judge to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of the said court this 14th day of November, 1878.

NATHANIEL JARVIS, JR.,
Clerk.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye, that we, having examined the records and files in the office of the clerk of the county of New York, do find a certain annual report of the La [SEAL.] Abra Silver Mining Company there remaining in the words and figures following, to wit:

Annual report of La Abra Silver Mining Company, office No. 20 Nassau street, New York:

| | |
|---|-----------|
| Amount of capital stock | \$300,000 |
| Amount capital stock paid in | 157,000 |
| Amount of existing debts of the company not exceeding | 70,000 |

November 20, 1867.

GEORGE C. COLLINS,
President.

D. J. GARTH,
W. N. WORTHINGTON,
JNO. H. GARTH,
Trustees.

[U. S. Int. Rev. stamp, 5 cents. Canceled.]

CITY AND COUNTY OF NEW YORK, ss :

George C. Collins, being duly sworn, says that he is the president of La Abra Silver Mining Company above named, and that the foregoing report and the several matters therein contained are and each of them is true.

GEO. C. COLLINS,
President.

Sworn to before me November 23, 1867.

HENRY SNELL,
Notary Public, New York City and County.

Indorsed: Filed Nov. 25, 1867.

All which we have caused by these presents to be exemplified, and the seal of our said county to be hereunto affixed.

Witness Hon. Charles P. Daly, presiding judge of our said court of common pleas for the city and county of New York, at the court-house, in the city of New York, the 14th day of November, in the year of our Lord one thousand eight hundred and seventy-eight and in the one hundred and third year of the Independence of the United States.

HENRY A. GUMBLETON,
County Clerk.

I, Charles P. Daly, judge and presiding judge of the court of common pleas for the city and county of New York, being the court of the county of New York, in the State of New York, do hereby certify that Henry A. Gumbleton, whose name is subscribed to the preceding exemplification, is the clerk of the county of New York, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of the said county of New York, and that the said attestation thereof is in due form of law and by the proper officer.

Dated New York, November 14, 1878.

CHAS. P. DALY.

STATE OF NEW YORK,
City and County of New York, ss.

I, Nathaniel Jarvis, Jr., clerk of the court of common pleas for the city and county of New York, do hereby certify that Charles P. Daly, whose name is subscribed to the preceding certificate, is a judge, and the presiding judge of the court of common pleas for the city and county of New York, duly elected and qualified, and that the signature of said judge to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of the said court, this 14th day of November, 1878.

NATH'L JARVIS, JR.,
Clerk.

The people of the State of New York, by the grace of God, free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye that we, having examined the records and files in the office of the clerk of the county of New York, do find a certain annual report of the La
 { Seal of the }
 { State of New } Abra Silver Mining Company there remaining, in the words and figures following, to wit:

ANNUAL REPORT OF LA ABRA SILVER MINING COMPANY.

| | |
|---|-----------|
| Amount of capital stock..... | \$300,000 |
| Amount of capital stock actually paid in | 157,000 |
| Amount of existing debts of the company do not exceed | 72,000 |

Dated New York, January 20, 1868.

GEO. C. COLLINS,
President.
GEO. C. COLLINS,
W. N. WORTHINGTON,
A. H. GIBBES,
Trustees

[U. S. int. rev. stamp, 5 c., canceled.]

CITY AND COUNTY OF NEW YORK, ss:

George C. Collins, being duly sworn, says that he is the president of La Abra Silver Mining Company above named, that the foregoing report and the several matters therein contained are and each of them is true.

GEO. C. COLLINS.

Sworn to before me January 21, 1868.

HENRY SNELL,
Notary Public, New York City and County.

Indorsed: Filed January 21, 1868.

All which we have caused by these presents to be exemplified, and the seal of our said county to be hereunto affixed.

Witness Hon. Charles P. Daly, presiding judge of our said court of common pleas for the city and county of New York, at the court-house, in the city of New York, the fourteenth day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and in the one hundred and third year of the Independence of the United States.

HENRY A. GUMBLETON,
County Clerk.

I, Charles P. Daly, judge and presiding judge of the court of common pleas for the city and county of New York, being the court of the county of New York, in the State of New York, do hereby certify that Henry A. Gumbleton, whose name is subscribed to the preceding exemplification, is the clerk of the county of New York, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of the said county of New York, and that the said attestation thereof is in due form of law and by the proper officer.

Dated New York, November 14, 1878.

CHAS. P. DALY.

STATE OF NEW YORK,
City and County of New York, ss :

I, Nathaniel Jarvis, jr., clerk of the court of common pleas for the city and county of New York, do hereby certify that Charles P. Daly, whose name is subscribed to the preceding certificate, is a judge, and the presiding judge of the court of common pleas for the city and county of New York, duly elected and qualified, and that the signature of said judge to said certificate is genuine.

In testimony whereof, I have hereto set my hand and affixed the seal of the said court, this 14th day of November, 1878.

NATHANIEL JARVIS,
Clerk.

The people of the State of New York, by the grace of God, free and independent, to all to whom these presents shall come or may concern, greeting :

Know ye, that we, having examined the records and files in the office of the clerk of the county of New York, do find a certain annual report of La Abra Silver Mining Company there remaining, in the words and figures following, to wit :

ANNUAL REPORT OF LA ABRA SILVER MINING COMPANY.

| | |
|--|--------------|
| The amount of the capital of said company is | \$300,000.00 |
| The amount of said capital actually paid in is. | 235,000.00 |
| And the existing debts of said company amount to | 154,531.06 |

Dated New York, January 20, 1877.

J. G. BALDWIN,
President.
J. G. BALDWIN,
D. J. GARTH,
J. M. C. BARTHOLOW,
S. S. ELY,
Trustees.

CITY AND COUNTY OF NEW YORK, ss :

J. G. Baldwin, being duly sworn, says that he is the president of the above named La Abra Silver Mining Company, and that the foregoing report and all and singular the matters therein stated are correct and true to the best of his knowledge, information, and belief.

J. G. BALDWIN,
President.

Sworn to before me January 20, 1877.

[L. s.]

JAS. W. HALE,
Public Notary, 69 Wall Street.

Indorsed: Filed 20th January, 1877.

All which we have caused by these presents to be exemplified, and the seal of our said county to be hereunto affixed.

Witness Hon. Charles P. Daly, presiding judge of our said court of common pleas for the city and county of New York, at the court-house, in the city of New York, the fourteenth day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and in the one hundred and third year of the Independence of the United States.

HENRY A. GUMBLETON,
County Clerk.

I, Charles P. Daly, judge and presiding judge of the court of common pleas for the city and county of New York, being the court of the county of New York, in the State of New York, do hereby certify that Henry A. Gumbleton, whose name is subscribed to the preceding exemplification, is the clerk of the county of New York, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of the said county of New York, and that the said attestation thereof is in due form of law, and by the proper officer.

Dated, New York, November 14, 1878.

CHAS. P. DALY.

STATE OF NEW YORK,
City and County of New York, ss.:

I, Nathaniel Jarvis, Jr., clerk of the court of common pleas for the city and county of New York, do hereby certify that Charles P. Daly, whose name is subscribed to the preceding certificate, is a judge and the presiding judge of the court of common pleas for the city and county of New York, duly elected and qualified, and that the signature of said judge to said certificate is genuine.

In testimony whereof I have hereto set my hand and affixed the seal of the said court this 14th day of November, 1878.

NATH'L JARVIS, Jr.,
Clerk.

The people of the State of New York, by the grace of God free and independent, to all to whom these presents shall come or may concern, greeting:

Know ye, that we, having examined the records and files in the office of the clerk of the county of New York, do find a certain annual report of the La Abra Silver Mining Company there remaining, in the words and figures following, to wit:

ANNUAL REPORT OF LA ABRA SILVER MINING COMPANY.

| | |
|--|--------------|
| The amount of the capital of said company is | \$300,000.00 |
| The amount of said capital actually paid in is | 235,000.00 |
| And the existing debts of said company amount to | 154,531.06 |

Dated New York, January 18, 1878.

J. G. BALDWIN,
President.
J. G. BALDWIN,
S. S. ELY,
A. H. GIBBES,
TH. I. BARTHOLOW,
Trustees.

CITY AND COUNTY OF NEW YORK, ss:

James G. Baldwin, being duly sworn, says that he is the president of La Abra Silver Mining Company above named, and that the foregoing report and all and singular the matters therein contained are true to the best of his knowledge, information, and belief.

J. G. BALDWIN.

Sworn to before me January 19, 1878.
[L. S.]

JAS. W. HALE,
Public Notary, 69 Wall Street.

Indorsed: Filed January 19, 1878.

All which we have caused by these presents to be exemplified, and the seal of our said county to be hereunto affixed.

Witness Hon. Charles P. Daly, presiding judge of our said court of common pleas for the city and county of New York, at the court-house in the city of New York, the fourteenth day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and in the one hundred and third year of the Independence of the United States.

HENRY A. GUMBLETON,
County Clerk.

I, Charles P. Daly, judge and presiding judge of the court of common pleas for the city and county of New York, being the court of the county of New York, in the State of New York, do hereby certify that Henry A. Gumbleton, whose name is subscribed to the preceding exemplification, is the clerk of the county of New York, duly elected and sworn, and that full faith and credit are due to his official acts. I further certify that the seal affixed to the said exemplification is the seal of the said county of New York, and that the said attestation thereof is in due form of law, and by the proper officer.

Dated New York, November 14, 1878.

CHAS. P. DALY.

STATE OF NEW YORK,
City and County of New York, ss:

I, Nathaniel Jarvis, jr., clerk of the court of common pleas for the city and county of New York, do hereby certify that Charles P. Daly, whose name is subscribed to the preceding certificate, is a judge, and the presiding judge of the court of common pleas for the city and county of New York, duly elected and qualified, and that the signature of said judge to said certificate is genuine.

In testimony whereof, I have hereto set my hand and affixed the seal of the said court, this 14th day of November, 1878.

NATH'L JARVIS, Jr.,
Clerk.

The committee hereupon adjourned to Monday, February 11, 1885, at 10 o'clock, a. m.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 11, 1889.

The subcommittee met pursuant to adjournment. Present, Senator Morgan, chairman; Hon. John W. Foster and Mr. Robert B. Lines, of counsel for the Government of Mexico; and Mr. Crammond Kennedy, of counsel for La Abra Silver Mining Company.

TESTIMONY OF JAMES G. BALDWIN.

JAMES G. BALDWIN, sworn and examined.

By the CHAIRMAN:

Q. What is your name, age, and place of residence?—A. James G. Baldwin; age, sixty, within a few days; residence, New York City.

Q. Were you ever president of La Abra Silver Mining Company of Mexico?—A. Yes, sir.

Q. Is that a New York corporation?—A. Yes, sir.

Q. When did your term as president commence and when did it end?—A. Well, it commenced some time in the year 1876, under these circumstances—shall I state the circumstances?

Q. Yes.—A. Mr. George C. Collins, the former president of the company, died some time in 1875. His son and widow, who were the executor and executrix, employed me to settle the estate. In connection with that I came across the evidence taken before the original commis-

sion, and so became acquainted, somewhat, with the claim of this company against Mexico, and in 1876, a little over a year after Mr. Collins's death, the trustees of this company had a meeting in New York and it was desired by them that I take Mr. Collins's place, inasmuch as I was his representative in settling his estate; and, to enable me to become legally an officer of the company, young Mr. Collins, the executor, assigned to me one share of the stock of the company, whereupon the trustees elected me as a trustee and then proceeded to elect me—I think, the same day; that may not be the same, but, at any rate, it was in that year—as the president to take the place of Mr. Collins as the representative of his estate.

Q. How long did you remain in the office of president?—A. Well, I continued there, being re-elected from time to time—I can not be positive, but I think it was until about the year 1883; I think about five years ago. My business was very urgent in other directions. I had simply a nominal interest in this as the representative of the Collins estate, and I could not afford to spend even what little time was necessary. So I requested to be relieved, and about 1883—I will not be positive as to the time—I was relieved. I resigned, and Mr. A. H. Gibbs was chosen in my place. I still remained a trustee, but not as president. I think about two years after that—it may not have been as much; it may have been only eighteen months; it is a mere matter of memory, but the general date is about right—Mr. Gibbs was taken sick, had to give up his business in New York, and went to Wales for his health. He still retained the office of president until it was decided he would not be back for some time. Then he sent his resignation to the trustees and they re-elected me. I think he was president about two or three years. I can not be positive.

Q. From what time to what time?—A. He was in from some time in the year 1883 to some time in 1886; that is my memory.

Q. Then you came in again?—A. Yes; I came in again.

Q. Are you now the president?—A. Yes.

Q. Did I understand you to say you had had some connection with the management of the case before the Joint Commission?—A. No, sir; none whatever. I simply stated that my knowledge of the case came from finding the printed copy of the evidence with Mr. Collins's paper. It was the first actual knowledge I had of the case. I might say, as I was an intimate friend of Mr. Collins, I knew that he had an interest in a claim of that kind, but did not know anything of the particulars, the facts in reference to it, until I came across this book of evidence.

Q. Did you, before you became president of that company, or a member of it, have any personal knowledge of the transactions of the company?—A. Not the slightest.

Q. When you became president, what books and papers were placed in your charge?—A. None whatever.

Q. In whose charge were the books and papers at the time you became president?—A. I don't know that, because I never saw them.

Q. Did you conduct any correspondence as president with the agents or servants of that company, anywhere?—A. No, sir, not to my remembrance.

Q. Did you perform any official acts as president?—A. Well, when they were to have a meeting I presided as president.

Q. They had meetings?—A. They had meetings from time to time.

Q. Was any record kept of the meetings?—A. I suppose there was;

yes, sir. It was kept by the secretary of the company, but what he did with them I don't know.

Q. Did you sign the record as president?—A. Some of them I did and some I did not.

Q. But a minute was kept of the proceedings of the company?—A. I so understood it; yes.

Q. Who was secretary at the time you were president?—A. Mr. Sumner Stowe Ely.

Q. Have you ever seen those minutes, or any of the proceedings of that company, since you went out of office as president?—A. I have never seen any of them. As I say, they were made at the time we held the meeting, and perhaps in some instances I may have heard them read at the next meeting.

Q. While you were president?—A. While I was president, yes, sir.

Q. But during the time of the interregnum, when this other gentleman was president, did you see anything of them during that time?—A. No; I never saw anything of them whatever at that time.

Q. Well, you have the books and papers now of the company, have you not?—A. I have not and never have seen them. I did see, when I first came into office, a small book containing the names of the stockholders, and that is the only book I have any remembrance of ever seeing.

Q. Did that also contain a statement of the transfers of stock, if any transfers had been made?—A. I am inclined to think it did, but can not be positive.

Q. Did it show any transfers that had been made?—A. I can not be certain of that. I know there was a transfer of that one share of stock to myself.

Q. Yes, you mentioned that.—A. Yes, and I suppose a record was made of it, but I never have seen any record.

Q. Now, supposing this fund lying in the State Department should be available, how would you proceed to make distribution of it; how would you pay it out?—A. I should not pay it out. As I understand, if it came to my knowledge first, I would instruct the secretary to call a meeting of the trustees.

Q. What data would you have upon which to make these payments?—A. I presume in such a case as that the data would be furnished by the secretary. Do not understand me to say that there are no data. I simply say that I know of none and have never seen any. You understand that I am simply acting as a nominal, a sort of figure-head in this concern, simply to carry the thing along. I have no interest in it whatever.

Q. Mr. Sumner Stowe Ely is the general manager of it?—A. He is, yes. He has managed it here in Washington; has reported the state of the case to me, and we have talked it over, and we have conversed from time to time, but I can not remember only in a general way.

Q. While you were president of this company did you ever see any correspondence or letters from any of its agents in Mexico to the company in New York?—A. I don't remember ever seeing one from Mexico.

Q. At the time you became president were you conducting any active operations in Mexico?—A. No, sir.

Q. What were you doing with the company?—A. It was just after I became president that the award was rendered. That was in 1875, and I came in in 1876. It was the time that there was a motion, I think, for a rehearing before the umpire.

Q. Did you ever, as president of that company, take any cognizance of the property or rights of the company in Mexico?—A. No, sir.

Q. Paid no attention to it at all?—A. No, sir.

Q. Did you know what property rights of any kind the company had in Mexico at the time you became president?—A. Well, all I knew was from this book of evidence that I saw, which showed me, and then I knew from the private books of Mr. George C. Collins that he had expended a good deal of money in the matter, so that I knew there was a good deal of money there.

Q. Your interest in whatever of actual value there was of the company was transferred from the company to the claimant against Mexico, wasn't it?—A. So I understood it.

Q. Did you, in the discharge of your duties as president, and also as the representative of Mr. Collins's estate, examine carefully the testimony before that Commission as printed?—A. I went through the book very carefully. I did it at the special request of the executor, young Mr. Collins; he was not at all conversant with it.

Q. Then you became president. Did you ever see General Bartholow?—A. Yes.

Q. Where did you see him?—A. I saw him in New York.

Q. Did you ever see Mr. de Lagnel?—A. No, sir.

Q. Did you ever see Mr. Exall?—A. No, sir.

Q. Did you ever see Mr. Granger?—A. No, sir.

Q. Did you ever see any other person who had been employed in Mexico in connection with this company besides General Bartholow after you became president?—A. I am under the impression that Mr. D. J. Garth went there at one time, though I am not positive about it. Aside from that I have not seen any that were employed there.

Q. D. J. Garth, I believe, was formerly treasurer?—A. Yes, sir.

Q. Who was treasurer while you were president?—A. Mr. Ely, secretary and treasurer.

Q. And general factotum, wasn't he, managed the whole business?—A. Well, I went into the business with the express understanding that I was to be simply a nominal president, as I have no time to give it.

Q. As you have expressed it, "figure-head"?—A. Yes, I think that comes about as near it as anything you can say.

Q. Now, have you no knowledge, information, or belief as to where those letters are, and correspondence between the company and the agents of the company in Mexico, or the books and papers that were kept as records to show the transactions of the company while it was conducting its mining operations in Mexico?—A. Well, I have no knowledge. All the information that I have in reference to the matter, as near as I can remember it, is about to this effect: Some, I should think, two years after I became president—two or three years—the company had the suit with the Bank of California with reference to the payment of some draft.

Q. How much was that draft?—A. I think it was \$5,000; I will not be positive.

Q. Who was that drawn by?—A. That I don't remember.

Q. Who was it drawn upon?—A. It was drawn, I think, upon the treasurer.

Q. Who was the treasurer?—A. D. J. Garth.

Q. Where was it drawn?—A. Well, I can not swear positively as to that. I think it was Mexico. I will not be positive.

Q. Where was it payable?—A. Payable in New York, I think; that is, drawn on the treasurer at New York.

Q. Was it discounted?—A. My impression is that the suit originated from the Bank of California having discounted it and the company refusing to pay, but that is a mere matter of remembrance. At that time I know that Mr. Ely was very anxious to find the original books and papers to answer some point in reference to this suit; I don't know what; but he made at that time, as he told me, a very careful search. Mr. Garth in the mean time had gone out of business, had abandoned his original place of business, and did not know where the books were, but thought they were at his old place. I know he made a thorough search—

Q. You say you know; you mean he stated?—A. He told me so. He told me he had made a thorough search for the books and the papers and utterly failed to find them.

Q. Did Mr. Ely give any account of the books, whether they had been spirited away, whether lost, or what?—A. He said the only idea was that they may have been left in a trunk or old box in the office of the company, and that the janitor of the building finding them there and thinking them of no account may have destroyed them.

Q. During your administration of your office as president did you have to make a distribution of a part of the money derived under this award?—A. There was one distribution made during my office. I did not make it. It was made by the trustees.

Q. I understand that. Did you draw the checks?—A. I signed the checks in connection with the treasurer.

Q. Where was the money deposited; in what bank?—A. The Chemical Bank.

Q. So that the records of that bank will show the checks and the parties to whom distribution was made?—A. As to the parties, I don't know whether they will or not. I have never seen the records; whether they give a record of the names or not I don't know.

Q. What percentage of the capital stock was paid out on that?—A. No percentage; nothing paid on stock at all.

Q. What percentage on the amount of the award was distributed at that time?—A. Well, I can not answer positively whether it was two installments or three. My impression is that it was two, but it may have been three.

Q. You do not remember the percentage of the amount of the award, then?—A. Not positively. I think there were fourteen installments, and we had received two or three of them; which, I am not positive.

Q. Well, you had, then, a list or memorandum of the persons who were entitled to receive compensation out of this award at the time you made that distribution?—A. Undoubtedly; yes, sir.

Q. What became of that list?—A. I presume it was kept by Mr. Ely. I never saw it after the meeting at which the distribution was made.

Q. Was any sum of money taken out of the main body of that award for the purpose of paying legal expenses, witness fees, or any other expenses connected with the preparation of the case for trial before the joint commission?—A. I can only give you my memory in reference to that.

Q. That is right.—A. As I remember it, in making this distribution the trustees decided that they would pay as far as the money went pro rata the expenses that had been incurred after the failure of the company in New York—that is, after their failure to respond to the drafts that were sent on there from time to time. Large amounts of money were raised, I don't know how much, but a good deal of money was raised among the stockholders, some parties contributing more and

some less, and there was an account kept of this money. The secretary and treasurer had an account of all this money that had been received, and, as I remember now, the trustees voted that they would pay as much of that money back as the money in hand would enable them to, together with what lawyers' expenses had been incurred in prosecuting the claim and the expenses of the agent in Mexico and all the expenses that had been incurred since the company stopped its business. That is my memory.

Q. Had the company stopped its business when you became president?—A. Yes, sir.

Q. Did you ever make remittances to Mexico on account of this company after you became president?—A. No, sir.

Q. Well, what expenses could the company have incurred there after the failure in New York and the defensive litigation with the Bank of California?—A. The expense was in making the case before the commission and in prosecuting it before the umpire.

Q. After they failed, then?—A. They obtained contributions from the several stockholders to prosecute this claim.

Q. Were those contributions in the nature of loans or assessments?—A. So far as my knowledge goes they were voluntary contributions.

Q. Did you contribute anything from Mr. Collins's estate?—A. I think that Mr. Collins contributed \$2,500.

Q. Was that before his death?—A. I mean, now, his executor.

Q. You, as his executor, contributed \$2,500; did you take any note for it?—A. We took nothing but Mr. Ely's receipt for it as treasurer of the company.

Q. And that \$2,500 was refunded to the estate of Mr. Collins?—A. Yes; that was refunded out of the first money.

Q. Was there enough to refund all these contributions out of these first two installments?—A. My memory is there was enough to refund all these contributions.

Q. How much was left over?—A. I could not say how much.

Q. Only attorneys' fees and other expenses incidental to the case?—A. I could not possibly tell you. It has gone out of my mind entirely.

Q. But you kept an account?—A. I did not keep any account.

Q. Did you know an account was kept?—A. An account was kept.

Q. Showing the whole transaction?—A. I suppose so. I have no doubt it was kept.

Q. Do you know of any sum of money paid to or awarded to General Adams for obtaining evidence in the case?—A. I know I have, since I have been connected with the company, seen an agreement with General Adams and the company to the effect that he was to have one-third.

Q. Where did you see that agreement?—A. I think I saw that agreement at the time of this first distribution. I think he presented that agreement as the evidence of his claim upon the company. I know I always understood it before that.

Q. Was it one-sided, unilateral, or were there duplicates of it?—A. I don't know; I never saw but one copy.

Q. Was that agreement taken up?—A. At the time of this distribution he received his pro rata, according to the agreement.

Q. Was it credited on the agreement?—A. I don't know about that.

Q. Well, some receipt was taken from Adams?—A. I suppose so.

Q. In full payment of all his services in connection with the award or beyond his pro rata?—A. Only his pro rata.

Q. Do you recollect how much he got?—A. I could not say

Q. \$2,000, or \$3,000, or \$10,000?

Mr. KENNEDY. He said it was one-third.

By the CHAIRMAN:

Q. One-third of the amount distributed?—A. Yes; that is all I know about it. It was a good many years ago and it was a mere clerical matter that I had no experience in.

Q. Did he not put in a bill of expenses that he insisted it was right to divide with him?—A. I am inclined to think he did, but I am not positive about it.

Q. Was that bill of expenses included?—A. I can not say positively, but there was a good deal of talk about extra expenses.

Q. There were some expenses, I suppose, that General Adams had agreed to pay?—A. That was it.

Q. But he contended that he had a right to a third interest on account of his personal service?—A. Yes; for his personal service.

Q. Did he not insist that the company should bear two-thirds of the expense and he one-third?—A. That is the way I remember it.

Q. And thereupon he presented a bill for two-thirds of the expenses?—A. I think it was.

Q. But you do not remember what that was; you do not remember the items of the expense?—A. No, sir.

Q. When was that settlement made; this distribution you speak of?—A. Well, my memory is that it was in 1878 or 1879.

Q. Was a draft drawn in favor of General Adams for the balance found due him after accounting on that occasion?—A. Well, I know it was; but I don't know in what form. I think he received a check in the form all the other claimants did.

Q. If he did it was signed by you as president of the company upon the Chemical Bank?—A. Yes; signed by myself and Mr. Ely. The arrangement at the bank was that checks were to be signed by both of us.

Q. Where is General Adams now; do you know?—A. Dead.

Q. And who is his administrator or executor?—A. I can not name him to save my life. He is a man in New York.

Mr. KENNEDY. No, I will tell you who it is, Mr. Chairman; it is a brother who lives in La Grange, Ohio.

The WITNESS. Yes; his attorney is in New York.

Mr. KENNEDY. Yes; that is right.

By the CHAIRMAN:

Q. Do you remember whether any of the agents—whether you recollect the names or not—of La Abra Mining Company came from Mexico to New York after the suspension of the mines and of the business in the State of New York, and made any reports about this thing?—A. Never knew of any; no, sir.

[The chairman was called to the Senate Chamber and the proceedings were suspended for a short time.]

The WITNESS. Before we go on I want to make a little correction. I stated that \$2,500 was contributed from the estate of Mr. Collins. That is a mistake. Young Mr. Collins contributed that money individually, not feeling himself authorized to do it as executor. And another statement. I think I said something about the company's failure in New York. I am not aware that they did fail. I meant after they had stopped work.

By the CHAIRMAN:

Q. Was any report ever made to you by your predecessor, or by any

other person after you became president of the company, of any of the property belonging to the company in Mexico, the character and description and value of it, and into whose possession it had gone?—A. No, sir; no report except that which I discovered, as I say, in the evidence.

Q. Did you make any investigation or inquiry of any kind to ascertain what the property was in Mexico or what had become of it?—A. I learned through this book of evidence what the property was and what had become of it.

Q. That book of evidence, as I remember, discloses that some of the property in Mexico was taken in charge by different persons and mining companies. Machinery there which cost probably \$40,000 had been taken by different persons and companies, appropriated to their own use. Were you aware of that fact from the reading of that testimony at the time you were president?—A. Do you mean to ask if I got that information from the testimony?

Q. Yes.—A. The information I got in a general way—I can not give it in detail now because it is some eleven years ago—but the information I got in a general way was that the company were driven out of Mexico by violence and that the parties, or some parties under them, the Mexicans, assumed a control and worked the mines afterwards.

Q. From whom did you get that information?—A. From reading the book of testimony.

Q. Only from that source?—A. Only from that source.

Q. You made no inquiry to ascertain whether it was true or not?—A. Oh, I presume in conversation with Mr. Ely it may have been referred to, but I don't remember distinctly.

Q. Did you have any conversation with any person who knew the state of the facts in Mexico?—A. I had more or less conversation with Mr. Garth and Mr. Bartholow also, and all confirmed the statements I had learned from reading the evidence.

Q. Did Mr. Bartholow profess to have been in Mexico at a time when force or violence was used to drive the company out?—A. I don't remember that he did.

Q. If he spoke of it at all did he speak upon the information that was contained in that record or from personal information he had derived from observation of the facts in Mexico?—A. I don't think I can answer that, because I really have no memory as to how the information—in what form it was communicated. I know that in all the conversations, as I stated before, that I had with any of the parties they were corroborative of the facts as I have learned them from the evidence.

Q. Do you remember if you had a conversation with Bartholow or any other person who stated to you in any form that he was personally the witness of transactions in Mexico by which this company had been driven out?—A. No, sir; I do not.

Q. Your information therefore was gathered second-handed and from the evidence?—A. Yes; as I stated in the commencement, I knew nothing of the company's transactions before I became its president.

Q. Did you know what had become of the ores that were on the patio at the hacienda at Tayoltita?—A. No, sir.

Q. Did you go to any trouble to ascertain what disposition had been made of those ores?—A. No, sir.

Q. You doubtless believed from the evidence that they were very rich?—A. I have no reason to doubt it from the evidence.

Q. Yes; and no steps were taken to secure them in any way?—A. No, sir; not after I came in, because the matter had entirely passed

out of the company's hands. Understand, I do not know what effort may have been made to obtain possession of the ores before I came in. I am speaking of after I came in; there was nothing done of that kind. The company had no interests in Mexico at that time.

The CHAIRMAN. Well, I do not know of any other question I have to ask as a member of the committee.

By Mr. FOSTER :

Q. How many meetings of the trustees have you attended, Mr. Baldwin?—A. I could not possibly answer.

Q. Could you not approximate the number?—A. Well, I could not with any certainty. During the first few years meetings were held quite often. For the last five or six years they have been mere nominal meetings, held not, sometimes, more than once a year.

Q. During the first few years they were held a number of times during each year?—A. Yes; sometimes two or three times in a month, depending upon the circumstances of the case. I could not approximate it with any degree of certainty. It would be the wildest guess in the world.

Q. Are they accustomed to have a meeting annually now; the last five or six years?—A. No, sir.

Q. How long has it been since you attended a meeting?—A. Well, I should think at least eighteen months, but I can not be positive, really. It certainly is a long time. As I have said, in the first place they come into my office when there is anything to be done—the company has no office—but they come into my office in the bank when there is anything to be transacted—the majority of the trustees—and they will hold a meeting of a very few moments, and Mr. Ely takes the whole thing away with him, the records, and it goes out of my mind in an instant almost. So that I can not, with any kind of certainty, give you correct data of that; only I should say it is a long time. I should say not within the past year.

By the CHAIRMAN :

Q. I want to ask you if you had any knowledge of a transaction by which the debts claimed by various members of this company against La Abra Silver Mining Company were placed in the hands of Mr. Garth for the purpose of suit being brought upon them?—A. Of my own knowledge, I can not answer it.

Q. Was that transaction before you came in as president?—A. Yes; that occurred before I came in.

Mr. FOSTER. That occurred in 1867.

Q. I understand you to say that these meetings of the trustees have been held in your office?—A. Most generally. Sometimes in other places, but most generally they come there because perhaps of my being a busier man than any of them and not able to go out.

Q. Did Mr. Ely bring to any of those meetings any of the records?—A. No, sir; that is, any of the past records. In the first three or four years he used to bring the record of the previous meeting, but for the last two or three years they have been just formal meetings, just for the purpose of keeping up reports, etc.

Q. Was there any record made of those meetings?—A. Oh, at the time, yes.

Q. Who signed the record?—A. Mr. Ely, ordinarily. Sometimes I signed it as president, but ordinarily Mr. Ely, as secretary; these informal meetings, I mean.

Q. I infer that for a number of years past you have not signed them?—A. I do not remember signing any record for the last two or three years. I do not remember, but I will not be positive about it.

Q. Then Mr. Ely had the management of this whole affair?—A. No, sir, I will not say so. Mr. Ely has not had the management of it. It has been conducted by the trustees, and Mr. Ely has kept the record of it.

Q. Who has managed it? Have you as president?—A. No; the trustees. As a trustee, I have acted as one of the trustees.

Q. Who received the money from the Department of State?—A. It was received through the attorney, who was Mr. Ely; deposited in the bank in the name of the company.

Q. Did he deposit all the money received, or did he reserve any portion for himself?—A. Never reserved any portion to my knowledge. If he did he has done it without my knowledge or that of any of the trustees.

Q. Well, we will get back to that presently. I wanted to fix more accurately the meetings of the trustees. Can you give the names of the trustees at the time you were elected president?—A. I do not know. I can give some of them.

Q. Well, let us have those that you can remember.—A. Mr. A. H. Gibbs was one; Mr. D. J. Garth was another. I think Mr. Meade—he was at one time, but I am not sure whether he was at that time.

Q. Meade; do you remember his Christian name?—A. Edwin, I think, was his first name.

By Mr. LINES:

Q. Is it not Frederick?—A. It may have been Frederick. Yes, I guess it was Frederick. Now, I am not positive about him. The other two I am positive about.

Q. Do you think of any others?—A. And Mr. Ely was, I think, at that time; but I can not be sure whether he came in before or after me. He came in the same way that I did, by simply having one share assigned to him to make him eligible as an officer. I think he came in before, but I will not be positive about that. I think Mr. Westray was at that time also. That is another thing that I am not positive about. I know Mr. Gibbs and I know Mr. Garth were. I am sure of those two. The others I am not.

Q. Mr. Gibbs is not living in this country?—A. He is not in this country to my knowledge. The last time I knew of him he went to Europe, and was in such a state of health that I guess none of his friends ever expected to see him again, and I have heard nothing of him since.

Q. Is he a native of the United States?—A. I really don't know where he was born.

Q. Do you know whether he is a citizen of the United States?—A. I should call him so. He claimed to be; he is a citizen, certainly.

Q. How do you know he is a citizen? Did you ever know of his exercising any of the rights or functions of a citizen of the United States?—A. I only know he was in New York, and in order to be an officer of this company he has to be a citizen of New York.

Q. The reason why I ask is that Mr. Garth has stated he was an Englishman.—A. May be he was. I know he went to Wales, and I know he had a brother in Wales, but ever since I knew him—he was a tea merchant when I first knew him in New York, and was so at the time his health failed.

Q. Do you remember when you first made an annual report of the

company as required by the laws of New York?—A. Do you mean under my administration as president?

Q. Yes.—A. It was between the 1st and 20th of January in the year 1887. That is my memory. I think it is correct.

Q. Do you know when the last report was made previous to that time?—A. I have not the slightest knowledge; no, sir.

Q. Do you know whether annual reports were made previous to that?—A. I have not the slightest knowledge on that subject.

Q. You made no inquiry on that subject?—A. No inquiry; no, sir; never heard it spoken of to my knowledge.

Q. Who prepared that report—the first one you made?—A. The first one was prepared by Mr. Ely.

Q. What steps did you take to ascertain the correctness of that report?—A. I saw the original report that was sworn to by my predecessor, Mr. Collins. I can not give you the date of that, because I have entirely forgotten it, but my confidence in Mr. Collins was such that I was willing to swear what he had sworn in reference to the fact.

Q. That was your only means of ascertaining the fact?—A. And the statement of Mr. Ely that it was correct.

Q. You examined no books and accounts?—A. No.

Q. You knew nothing about the dates as they appeared.—A. Only from this statement.

Q. Was that report of Mr. Collins with which you compared this one within a year or two of the time?—A. That is a question that I really can not answer. I think it was, but I really have not the slightest knowledge or memory of it as a fact. I only know there was such a report shown me and I saw Mr. Collins's name and affidavit attached to it.

By Mr. LINES:

Q. Suppose it had been eight or ten years before?—A. I think I should have noticed.

Q. Well, if it had been eight or ten years, would you have been willing to swear to it?—A. No, sir; because matters might have changed in the mean time, and for that reason I have no doubt it was a report of the preceding year. I can not swear to it.

By Mr. FOSTER:

Q. In whose handwriting was that report?—A. It was printed.

Q. But in whose handwriting was it?—A. I do not know anything about it but that it was shown to me in a printed slip. You know the law requires that it shall be printed; and that little printed slip was taken out and attached to the paper.

Q. Do you know whether any record has been kept of the reports—any record by any officer of the company?—A. I do not know. I presume Mr. Ely has kept the record; I am not positive.

Q. You have never seen any?—A. Never seen any detailed record; no, sir.

Q. When did you make the next report after that as president?—A. The reports were supposed to be made, and I presume were made, every year.

Q. Have you made them every year in the last five or six years?—A. Yes.

Q. Do you know whether they differ from that first report you made?—A. No, sir; they have not differed.

Q. There has been no change in the situation?—A. No, sir.

Q. And the items have been carried on uniformly?—A. Have remained the same; yes, sir.

Q. Then there have been no debts added since you made your first report?—A. Well, I am not positive about the debts as regards the company. This is supposed to be a report of the company as it existed at the time of the closing and there have been, as a company, no additions to that, because the company ceased its work. There have been, undoubtedly, undertaken contracts in connection with this prosecution, etc., but those have not been taken into consideration in the report.

Q. Have they all been made contingent upon success in obtaining the award.—A. Not all; mostly.

Q. Do you know that the trustees ever incurred obligations other than contingent obligations in connection with the prosecution of this case?—A. I do not quite understand the question. What—

Q. Well, I ask you if these debts that had been incurred since you became president were all contingent upon success in obtaining the award?—A. Yes.

Q. My understanding is that you stated that the greater portion of them were, but I received the impression that you said a portion were not.

The CHAIRMAN. I am called to the Senate Chamber and may not return. Counsel can proceed with their questions, and any objections that are made will be noted by the stenographer and the committee will rule upon them hereafter.

The WITNESS. As I understand your question, no. The trustees have incurred no liabilities except those that are contingent upon the payment of the award.

Mr. KENNEDY. Since—

Mr. FOSTER. Since he became president—since 1876.

The WITNESS. One moment; I want to get that statement exactly correct. We have paid, and there has been money raised to pay, certain expenses; and certain attorneys have had a certain amount of money, and that money has been contributed. It has not been an obligation that the trustees have assumed for the company, but the members of the company have raised some money and have paid these contingent expenses along to a certain extent—the understanding being that when money was received those expenses were to be taken out of the money received. So that I think my first statement was correct that it was all contingent.

By Mr. FOSTER:

Q. Well we will try to make that clear by following it up with some questions. You have referred to an arrangement made with General Adams in answer to a question of the chairman, by which General Adams is to receive one-third of the award for his fee in connection with the prosecution of the suit?—A. Something to that effect, yes.

Q. Do you remember about when that agreement or arrangement was made?—A. No, sir; I have no knowledge at all of that.

Q. That was before you became president?—A. Yes, sir.

Q. You stated that some money was advanced or contributed by the stockholders. Can you state the amount that was contributed?—A. No, sir; I could not give you the slightest idea of that.

Q. You say you have looked over this record somewhat as you found it, the printed case. Suppose I refer you to some data and see if it will refresh your memory. It seems to me that this agreement as stated—

Mr. KENNEDY. What are you reading from?

Mr. FOSTER. Well, I want to refresh his memory of what is alleged to be the date of this arrangement with General Adams.

Mr. KENNEDY. Yes, but you are doing it from the record, and I would like you to tell me, if you please, what part you are reading?

Mr. FOSTER. It is the record that was presented the other day—this bill in equity.

Mr. KENNEDY. Yes, but that has never been admitted in evidence. You remember that I objected to that, and the then chairman (Senator Dolph) allowed the bill to be printed, and reserved his ruling in regard to its admissibility. I do not think you have any right to use that now.

Mr. FOSTER. I am not using it.

Mr. LINES. The situation is the same in regard to that as with regard to all the rest of the testimony. There is lots of testimony that may be stricken out.

Mr. KENNEDY. Well, my objection to the question and also to the reference to that part of the record is this, that it appears from what the witness has said that he did not become connected with La Abra Company until 1876, and then only in a nominal way as representative of the estate of Mr. Collins. Now, it was three or four years prior to that time that the company entered into an agreement with General Adams—probably five or six years prior to that time—and this witness of his own knowledge can not say anything about that agreement. He has already testified that he knows nothing about it, and you can not possibly refresh his recollection in regard to a thing of which he has no knowledge.

Mr. FOSTER. The bill was not filed in this suit—

Mr. KENNEDY. Of Bartley and Stanton *vs.* La Abra Company?

Mr. FOSTER. The suit was brought in 1880 and the company are made parties to the suit. It is presumed that the president of the company had notice of the suit.

Mr. KENNEDY. Yes; but you are trying, Mr. Foster, if I understand you, to refresh the recollection of this witness by referring to what is said in regard to an agreement, which agreement was made several years prior to the connection of this gentleman with the company, and this gentleman has already said that he has no personal knowledge in regard to that agreement. Now, I do not see how you can possibly refresh his recollection by anything in regard to a fact he has testified to be outside of his personal knowledge.

Mr. FOSTER. Well, we will find out by testing it if I ask him the question.

Mr. KENNEDY. I do not think you ought to use in testing his memory any part of an exhibit which has not been admitted by the committee. I do not think that is fair.

Mr. FOSTER. Well, we must get through with our objections at some time. If you are through I will proceed to ask the question.

Mr. KENNEDY. That is all right, of course. The chairman will rule upon that objection by and by.

Mr. LINES. Just one word. This agreement with Adams, if there was one, must have been a continuing agreement in existence at the time the witness was president of the company, and he must be presumed to have some knowledge of the outstanding agreements of the company.

Mr. FOSTER. The witness has undertaken to state the terms of that agreement in his testimony in answer to the chairman.

Q. Have you ever seen any agreement between Adams and the company?—A. Yes, sir.

Q. Do you remember when it was dated?—A. No, sir; I have not the slightest knowledge of that.

Q. It was before you entered upon your duty as president?—A. Yes, sir.

Q. Is it not provided in that agreement that the sum of \$3,500 should be contributed by the stockholders to assist Adams in meeting the expenses of prosecuting the suit?

Mr. KENNEDY. I object to that on the ground that the agreement itself is the best evidence and ought to be produced.

Mr. LINES. Well, let us call for its production, then.

Mr. FOSTER. We have called for it over and over again. Well, let us not waste time.

The WITNESS. Shall I answer it.

By Mr. FOSTER:

Q. Yes.—A. I have no knowledge of it; no remembrance of it at all. It may be or it may not be. I can not remember. As I said in the commencement in answer to the chairman's question, that agreement was presented, as I remember, at our first distribution, and the general terms of it were the only things that interested me. As to the details of it, I paid no attention to it; do not think I ever read it through, except to ascertain that he was entitled to one-third.

Q. And was not he to bear all the expenses of the prosecution of the suit except the amount that was contributed by the stockholders?

Mr. KENNEDY. I make the same objection to that.

A. No, sir; I do not remember anything of that kind.

By Mr. FOSTER:

Q. You stated in your testimony something on that point?—A. What I stated was this, that Adams made a claim of that kind, and the company repudiated it. Whether Adams presented a bill or not I do not know, and I do not know—

Q. What did the company repudiate?—A. The company repudiated any agreement to pay expenses. General Adams claimed that there was an agreement. How it was settled I do not remember. My own impression is that there was a compromise.

Q. Was not there a settlement made on or about the 13th of September, 1878?—A. It is utterly impossible for me to remember that date.

Q. You were president at that time?—A. I have stated in answer to the chairman that distribution was one or two years after I became president, and I can not give you any nearer data of it to save my life.

Q. No; I am speaking about an arrangement or adjustment that Adams claims with the company, and I ask you whether there was an adjustment made on or about the 13th of September, 1878?—A. I do not remember the date. There was an adjustment made and agreed to by Mr. Adams and the company, but what the date was I have not the most remote idea.

Q. Well, can you fix it by any — A. I can not fix it at all. My impression is that it was after the division of the first installment, somewhere about that time, but as to being exact about it, it is utterly impossible for me to do it.

Q. Were not the expenses of the taking all rebutting testimony fixed at that time at \$10,560?—A. I do not remember anything about it. It may have been. I have no memory of that at all.

Q. And you have no record of it?—A. Personally, no, sir.

Q. Who has the record?—A. I presume that the secretary has the

record of all things that were agreed to by the company; he is supposed to have, and I suppose he does.

Q. You say that Mr. Collins contributed \$2,500?—A. Yes.

Q. Was that contributed at one time or in different installments?—

A. My memory is that it was at one time; I am quite sure.

Q. Do you remember about when that was?—A. If I was in New York I could tell you exactly. I should say it was some time in the year 1878; I may be out in that. It was somewhere between the 1st of January, 1877, and the first of January, 1879.

Q. He had not contributed anything before that time?—A. No, sir; the estate. Mr. Collins himself had contributed before his death, but those were matters that came into the estate. I am now speaking of what young Mr. Collins contributed individually, feeling he was not authorized to contribute as executor.

Q. The estate had contributed something previously then?—A. Yes.

Q. Do you remember what amount it contributed?—A. You mean for—

Q. For the expenses of prosecuting the claim?—A. Well, this is a guess, but I know that it was not as much as \$2,500. My memory of that is somewhere about \$1,800. It was more than \$1,000 and less than \$2,500.

Q. Do you know whether that has been refunded to the estate?—A. It was when this first contribution was made, when young Mr. Collins made the contribution.

Q. Are you quite sure that this contribution of \$2,500 by young Mr. Collins was paid in full?—A. No; I think not quite, but almost.

Q. There was some deficiency?—A. I think a little deficiency, but I am not sure. I know the general idea was that he got his money back.

Q. Mr. Garth has testified that he has not received all his back.—A. Well, I don't know what Mr. Garth testified, of course.

Q. Well, I am only mentioning that to refresh your recollection as to what the facts were in this case.—A. Mr. Garth was not considered to be in circumstances to make contributions largely at the time when this matter was being controverted. He was not called on, therefore.

Q. I am speaking of the amount he received in return for his advances.—A. Well, I know this much, that Mr. Garth received just as much as every other member, because each man interested received so much pro rata. Now, if Mr. Garth did not receive all he contributed, then some portion of his contribution was made before the company stopped their work.

Q. No; he refers to these assessments.—A. Well, if he did not receive all, then the others did not receive all, and I think there was a slight deficiency, but it was slight.

Q. Have the stockholders received anything on their stock from the amount received from the award?—A. From the amount they paid, do you mean, as stockholders?

Q. Yes.—A. No, sir.

Q. None has been paid?—A. No, sir.

Q. Do you remember the amount that has been distributed to La Abra claimants by the State Department?—A. I don't remember positively. I think five installments.

Q. Now, that must have been some \$240,683?—A. I think very likely that was it. I think there were five installments, and, as I remember, there were about \$48,000 in each installment; that is in round numbers.

Q. And has any statement of the manner in which that sum was dis-

tributed been presented to the trustees?—A. The trustees, by vote, distributed it. Yes, sir.

Q. Did the trustees receive \$240,683?—A. If that is the amount. As I say, I don't remember positively whether there were four or five installments. My impression is that there were five, and if that makes \$240,000 then that would be the amount.

Q. Well, your impression is that there have passed through the hands of the trustees about \$240,000 of this award?—A. No; that is I think the last distribution did not all pass through the hands of the trustees. The first I think did. I think that General Adams's portion of the last distribution was received direct, without going through the hands of the trustees. Now, I am not sure about that, but that is my present memory, and I am inclined to think there was another party that—the records of the State Department will show all that matter, and it is perfect nonsense for me to attempt to remember this when I don't remember it.

Q. Well, if you do not know the facts of course you can not testify to them; but I am presuming that, as president, you have had some knowledge of the moneys that have passed through the hands of your company?—A. Yes.

Q. And that is what I am trying to get at.—A. I have stated to you that the trustees distributed that money all along.

Q. Well, I was trying to get at the amount distributed.—A. I am giving it just as well as I can.

Q. I am asking as to the amount, whether, approximately, it was \$240,000 or not.—A. I am answering it just as well as I know how. I think the last portion did not come through the hands of the trustees, but I may be wrong about that. I know that if the money pending in the State Department should be paid in now there would not be anything like the amount go through the hands of the trustees, because there have been a good many assignments filed, and my impression is that General Adams's assignment was filed before that, but I can not swear positively about it. My impression is that one or two parties have filed assignments, and therefore it would not come through the hands of the trustees and, therefore, they would not distribute that amount.

Q. How has that money been disbursed that came into the possession of the trustees; for what purposes?—A. It has been used, so far as my knowledge goes, to pay back these moneys advanced, as I have heretofore stated, and to pay attorneys and other disbursements, fees that have accrued in the prosecution of this claim since the first commencement of the litigation.

Q. Then, as I understand your answer, all of this money has been consumed in paying the expenses of prosecuting the claim?—A. And attorneys' fees.

Q. Yes; that is a part of the expenses of prosecuting the claim.—A. Yes; attorneys and agents, whatever they may be called; parties that have been employed by the company to assist in the matter.

Q. Do you know what the outstanding obligations of the company are for expenses of prosecuting the claim and attorneys' fees?—A. No, sir; I do not.

Q. Have you made no investigation of that as president of the company?—A. I have had knowledge of each agreement of the company. Each assignment that the company has made I have had knowledge of it; but you might as well ask me to fly to the moon as to remember the different amounts of each, only the parties have received a pro rata amount. The several attorneys have received a pro rata amount of the amount that has been paid in. Our agreements were to the effect that

those parties employed were to take their money pro rata as the money came into the hands of the trustees.

Q. Then they still have continuing interests in the future installments?—A. Yes.

By Mr. LINES:

Q. Adams's one-third is a continuing interest, I presume?—A. Yes, I suppose so.

Q. So that at least one-third of the accruing installments would go to pay Mr. Adams?—A. Yes.

Q. That would be how much?

Mr. KENNEDY. Oh, that is a matter of computation.

The WITNESS. Well, it would be one-third of the amount. I might take a pencil and figure it out for you, perhaps.

Q. Something like \$150,000?

Mr. KENNEDY. Well, that is a mere matter of computation.

Mr. LINES. Well, it is a good place to compute it right here.

Mr. KENNEDY. No, not at all. It is a matter that would not be admitted a moment in any court. The witness testified one-third, and you can make your own computations and arguments by and by.

By Mr. FOSTER:

Q. Well, not pressing the inquiry; do you know who transferred their stock to Mr. Ely?—A. Yes, sir; the estate of George C. Collins transferred one share of stock.

Q. The same estate which transferred one to you?—A. Exactly, yes.

Q. Then, both you and Mr. Ely were constituted stockholders for the express purpose of managing the affairs of the company in connection with this award?—A. Well, perhaps; that is, not managing it, but assisting in managing it. Let me explain that now, and then you will understand it. The majority of our stockholders are residents West, in Missouri, a large majority, and in different places, in Pennsylvania, Wheeling, W. Va., and Baltimore, and all around. The laws of New York require that there should be a majority of the trustees resident in the State of New York, and, in order to get a majority of trustees who would take an interest in the matter, and understand the matter enough to act in it, who would serve as trustees, it was thought advisable to make this transfer to myself, being the representative of Mr. Collins's estate, and to whom the company owed the largest amount; aside from Mr. Garth, Mr. Ely, as he was the attorney all along, was supposed to know more of the concerns and business of the company than any other person. We two were selected at that time for that purpose and for that reason.

Q. Do you receive a salary?—A. No, sir.

Q. Or any compensation for your services?—A. No, sir.

Q. You have received nothing?—A. I have received at the time of the first distribution, as a complimentary gift from the trustees, \$200. For the first three or four years I devoted more time to it and had a great many meetings, and my time was taken up. The trustees considered that my time was valuable, and, as I had no interest in the final award, they voted of their own free will \$200. That is all I ever received and all I ever expect to receive.

Q. Then any compensation you receive would be in your relation to the estate of Mr. Collins?—A. That is all settled up long ago.

Q. Do you know what compensation Ely has received or expects to receive for his services in connection with La Abra award?

Mr. KENNEDY. That is objected to as no more material or relevant

than the question, "What is Mr. Foster's compensation or his agreement with the Mexican Government?" would be in this investigation.

By Mr. FOSTER:

Q. Well, you can answer the question.—A. I certainly don't know what he expects to receive. I think he did receive out of the last distribution \$10,000. Now the records may show that I am wrong in that, but that is my impression.

Q. Were you asked when you were subpoenaed here to bring any records with you?—A. Yes.

Q. Did you make any application to Mr. Ely as to records?—A. I tried to find Mr. Ely, and could not find him, and therefore was unable to, and I telegraphed to the Sergeant-at-Arms.

Q. It is well enough to state that.—A. Yes, I looked over my own papers and found I have nothing only a few printed documents, which I remembered, arguments of one side and the other, that I have received from time to time. I have no written records of the transactions. I went to Mr. Ely's residence at New York and was told he had not been there for a long time. I wrote to him at his place in Girard, Pa., and requested him to answer me in New York, if he had time, and if not to answer me to the care of Shellabarger & Wilson, here. I have received no reply to my letter.

Q. Has not there been any vote of the trustees or any resolution as to Mr. Ely's compensation?

Mr. KENNEDY. That is objected to for the same reason.

The WITNESS. I can not answer positively. I know that there was a vote at that time by which his compensation, out of the moneys then in hand, was fixed, and I think that was \$10,000, and there may have been a vote fixing it for the future, but my memory is not sufficiently clear to make a statement on that point.

Q. Do you know anything of the arrangements by trustees that have been made with any other persons in connection with the prosecution of this suit?

Mr. KENNEDY. In regard to fees do you mean?

Mr. FOSTER. Or expenses of the suit.

Mr. KENNEDY. Well, suppose you put your question so that the witness will understand it.

Mr. FOSTER. The stenographer will read the question.

The stenographer read the question as follows:

Q. "Do you know anything of the arrangements by the trustees that have been made with any other persons in connection with the prosecution of this suit?"

Mr. KENNEDY. Now, if that refers to fees the answer is to be taken subject to the same objection.

The WITNESS. Shall I answer it?

By Mr. FOSTER:

Q. Yes; I will be obliged to you.—A. I know that there have been assignments made from time to time to several parties as attorneys for the company.

Q. Have you any of the details of them?—A. No.

Mr. KENNEDY. The same objection.

By Mr. LINES:

Q. Have all these assignments been filed in the State Department?—A. I don't know as to all. I only know of one or two that have been filed. Whether the others have or not I don't know.

Q. So that the records of the State Department might not give all of

them?—A. No. They would give some of them; I am not sure that Bartley & Stanton's was filed there.

Q. Did they have an assignment?—A. They had an assignment from that company of a certain percentage.

Q. Outside of the Adams contract?—A. Yes. I am quite positive about that, for the reason they had a suit against the company, and before they commenced the suit I think they filed their claim. I heard it so stated, at any rate.

By Mr. FOSTER:

Q. You have spoken about a search for the books and papers that was made by Mr. Ely about two years after you became president.—A. No, sir; it was later than that I think I said. It was somewhere, I think, in 1882 or 1883. That was some six years after I became president—no, five years, I guess. I think it was in 1883. The only reason why I think so is because my memory is that the Bank of California suit was at that time. I presume that Shellabarger & Wilson could tell you the exact date. It is a mere matter of memory with me.

Q. Then I had better recall your attention to that, so that you can exercise your memory a little. My impression is you said 1878.

Mr. KENNEDY. Oh, I think not.

The WITNESS. If I did say 1878 it was a *lapsus linguæ*. I intended to say 1883.

By Mr. FOSTER:

Q. Then you think it was about 1883?—A. That is my impression; yes, sir.

Q. And it was made with a view of getting information in connection with the suit of the Bank of California?—A. So I understand; yes.

Q. You know of no other search that was made for the records?—A. I do not.

Q. You do not know anything of this except from Mr. Ely's statement?—A. Except his statement that he was making a search. He came in the office one day with some papers and said, "If I could only find the books now I might learn whether this statement is correct," and I remember he said, "I am going to see if I can not find out." I know he told me afterwards that he had made diligent search in the old office of Garth & Co., where they would be most likely to be, and that he inquired of all the parties and he had been unable to find them, and, as I said before, he supposed the janitor had disposed of them as useless lumber.

Q. He talked of that as a recent search?—A. Yes.

Q. Did he speak to you about a previous search he had made?—A. No, sir.

Q. Was this suit still pending?—A. Yes; I say at that time. Now, do not understand me to be definite as to the time.

Q. Well, it is approximately correct?—A. Yes.

By Mr. LINES:

Q. What was the result of the suit?—A. Well, I think we defeated the Bank of California, but, really, I will not be positive about that.

By Mr. FOSTER:

Q. On what ground?—A. I don't know what the ground was. I remember Mr. Ely's being very jubilant over it and saying, "We have got the best of them after all."

Q. You did not deny that the company had received the money?—A. I don't know anything about that. I don't know anything of the

details of the suit. I only know that my memory is that the company defeated them.

By Mr. LINES:

Q. It was after this distribution?—A. Oh, yes.

Q. The company had the money to pay them if the debt had been an honest one?—A. It was after the first distribution, I am sure.

By Mr. FOSTER:

Q. If it was 1883, or approximately so, it was after the last distribution?—A. Very likely it was. I will not be positive about it. The company had a good many other honest debts that they didn't pay, either. The Collins estate, I know, would be very glad to get hold of some of it.

By Mr. KENNEDY:

Q. Mr. Baldwin, you have spoken about contributions for expenses; when were those contributions first made by the stockholders?—A. Before my becoming president.

Q. At the time that General Adams was down in Mexico taking testimony?—A. I should conclude so, although I can not swear to that positively, not having personal knowledge of it.

Q. Do you know whether General Adams went more than once on that business to Mexico?—A. I don't know.

Q. Do you know who was counsel for the company before the mixed commission?—A. Well, my impression—you know that award was rendered before I was connected with it—but I think that I have heard that the firm of Shellabarger & Wilson was, and my memory is that Jeremiah Black was also, but I may be wrong about that.

Q. Was not Judge Black special counsel, in resisting the motion made before the umpire for re-opening the award?—A. I know that Mr. Black was counsel before the umpire, whether he was before the commission or not. I am not sure, but I am quite sure that I have heard that he was. Whether he was a special counsel before the umpire I am not positive.

Q. Well, do you know whether his fee was contingent or not?—A. I am inclined to think not, though I don't know. I think he was paid a certain sum.

Q. What year was it that his argument was made before Sir Edward Thornton?

Mr. FOSTER. Well, if he does not know anything about it why should you follow up this inquiry?

Mr. KENNEDY. Well, but I am asking him what year it was. If he does not know, why, he can say so.

Mr. LINES. I don't like to object to it, but that is all as much matter of record as the installments paid out.

Mr. KENNEDY. Yes; but you have examined in detail about the installments and Adams's interest, and even wanted him to make the calculations.

The WITNESS. If I shall answer the question, my memory of that is the same year that I was elected president. Whether it was before or after I was elected I can not answer, but I think it was after, although I am not sure.

By Mr. KENNEDY:

Q. Now, you have spoken of the book of testimony; was that book of testimony printed at the expense of La Abra Company?—A. Not to my knowledge. I so understood it. I did not know of the fact.

Q. The chairman asked you whether you had any conversation with anybody who of his personal knowledge had or claimed to have information in regard to acts of violence committed against the company in Mexico, and you testified that you had had conversations with General Bartholow. Let me ask you whether you ever read General Bartholow's deposition in that book of testimony?—A. I did.

Q. Did you ever have any conversation with General Bartholow about the capture of trains of mules and supplies belonging to the company—I mean captures that were alleged by him to have been made while he was superintendent of the company?—A. Well, all that I can say on that subject is, that if that subject was referred to in his testimony—and I read it so long ago I don't remember any detail. I remember distinctly talking with him in reference to his testimony—now, if there is such a statement as that, which I don't remember in his testimony, then I unquestionably did.

Q. But apart from his testimony you have no independent recollection of conversation with him in regard to those captures?—A. None whatever.

MR. FOSTER. Do you think it would be pertinent for him to give them here if he had?

MR. KENNEDY. I simply wanted to bring out the fact, which I think escaped the chairman's notice, that General Bartholow's deposition was printed in that very book of evidence to which the chairman had referred, and that it speaks of captures.

Q. Now, you have testified in regard to a dispute between General Adams and the company in regard to his expenses, and I think you have testified that the matter was compromised. Do you remember whether General Adams claimed that the moneys that had been advanced to him were not to be kept out of his one-third?—A. Do you mean advanced to him?

Q. For his expenses in Mexico.—A. My impression is that that was the claim that he made.

Q. And the company claimed that he was to return whatever advances had been made to him out of his one-third?—A. Yes; that is my memory of it.

Q. Now, have you any recollection in regard to the terms of the compromise?—A. No, only this: I remember that there was a compromise, and that the amount that was to be allowed him for expenses was fixed at a certain sum, but I have not the most remote idea what that sum is; that is a matter of record, if my memory is correct as to the general understanding. The minutes will show, but I can not possibly approximate it.

Q. Now, do you know anything about efforts of the Mexican Government to obtain new testimony from Exall?—A. I know from hearsay.

MR. FOSTER. Well, we object to that.

By MR. KENNEDY:

Q. Do you know when Exall died or about when?—A. That is a matter of guess-work. I should say it was about eighteen months ago. Now I may be as wild as a hawk on that point, but I remember Mr. Ely's telling me one day that Mr. Exall was dead and whether it was one year, two years, or three, I don't know, but it was recently.

Q. Then you have no knowledge on that subject except from hearsay?—A. Nothing in the world.

The committee adjourned.

TESTIMONY OF GEORGE W. KITTELLE

COMMITTEE ON FOREIGN RELATIONS,
UNITED STATES SENATE,
Washington, D. C., February 13, 1889.

The committee met pursuant to adjournment. Present, Senator Morgan (chairman), Hon. John W. Foster and Robert B. Lines, esq., counsel for the Mexican Government, and Crammond Kennedy, esq., of counsel for the La Abra Silver Mining Company.

The CHAIRMAN. Mr. Kennedy offers this witness. Proceed with the examination.

GEORGE W. KITTELLE, sworn and examined.

By Mr. KENNEDY:

Q. What is your age?—A. I was sixty-one last September.

Q. What is your occupation?—A. Proprietor of a hotel.

Q. Where is your present residence?—A. Charlotte, N. C.

Q. Are you acquainted with Sumner Stowe Ely?—A. I am.

Q. How long have you been acquainted with him?—A. Over thirty years; I don't know but nearer forty; from boyhood up.

Q. Were you acquainted with Charles H. Exall?—A. Somewhat; yes, sir; I knew him.

Q. Now will you state whether, in the year 1878, you took part in any negotiations between Exall and parties claiming to represent the Mexican Government in regard to obtaining testimony from Exall antagonistic to the La Abra award.

The CHAIRMAN. Before you answer the question, name the parties who professed to be representing the Mexican Government in your answer.

The WITNESS. I met Mr. Exall and Mr. Fisher and Mr. Weed.

By Mr. KENNEDY:

Q. Do you remember Mr. Fisher's first name?—A. My impression is, without memorandum, I would not be able to state positively; but I should say Thomas from my recollection; but I am not sure of it.

Q. What was Mr. Weed's first name?—A. I think it was Harvey.

Q. If you have any memorandum by which you can refresh your recollection about these names I wish you would.—A. I have some communications from both parties that will enable me to fix their names. A telegram I have from Mr. Fisher is signed T. Fisher; Mr. Weed's is W. S. Weed.

Q. Will you state what, if anything, those parties (Weed and Fisher) said to you about the persons who employed them and the nature of the employment?

By the CHAIRMAN:

Q. When and where was this conversation?—A. The first conversation was at 52 Broadway, I think, on the 21st of January, 1878—52 Broadway, an office where Mr. Exall was then employed.

Q. In 1878?—A. It was in 1878; the first one took place on the 21st of January, 1878, at Mr. Exall's office, 52 Broadway.

Q. Now will you state what Fisher and Weed, or either of them, said, if anything, in regard to the persons that employed them and what was the nature of their employment?—A. I might say that, in the interview I refer to now, I was simply introduced by Mr. Exall to Mr. Fisher and Mr. Weed; became acquainted with them through Mr. Exall at that time, and nothing special transpired at that interview, except on

the part of Mr. Exall, turning over negotiations that he was having with these two gentlemen to me.

Q. Just say what Mr. Exall said, as near as you can recollect.—A. He said there was a negotiation pending between these gentlemen and himself, and he desired me to represent him in the matter.

Q. If he said what the negotiations were, you can state what he said.—A. It was with reference to some deposition or testimony he had given in the past in connection with La Abra Mining Company's claim in Mexico, with which he had, in some way, become connected.

Q. Well, what was the purpose of Fisher and Weed in that connection as stated by them?

Mr. FOSTER. By whom?

The CHAIRMAN. By Exall.

By the CHAIRMAN:

Q. They were present at the time?—A. Yes, sir; I was introduced to Fisher and Weed on that occasion, and the object of having me represent him in the negotiations that had been commenced was to follow—

The CHAIRMAN. Let me ask you, General Foster, is it denied that Fisher and Weed had the right to represent the Mexican Government on that occasion?

Mr. LINES. Decidedly.

By the CHAIRMAN:

Q. Where are Fisher and Weed?—A. I don't know.

Q. Do you know whether they are living or not?—A. I do not.

Q. Do you know the authority that they had to represent the Mexican Government?—A. They claimed they represented parties that represented the Mexican Government.

Q. What parties did they claim to represent?—A. Mr. Lines, General Slaughter, and the Mexican minister, Mr. Zamacona.

By the CHAIRMAN:

Q. Was there any written evidence of their authority to represent them?—A. On the occasion of the interview with Mr. Weed he read me extracts from a letter; he read me portions of a letter that he had received from Mr. Lines.

By Mr. LINES:

Q. Mr. Weed?—A. Yes, sir.

The CHAIRMAN. Go on.

Mr. LINES. I do not want to interfere with Mr. Kennedy. Go ahead.

By Mr. FOSTER:

Q. He knew it was a letter from Lines, or a letter purporting to be from him?

Mr. KENNEDY. If we don't prove the agency, this testimony goes for nothing.

The CHAIRMAN. That is right. I want to know if the agency was established. I did not know.

By Mr. KENNEDY:

Q. Will you state what was said by Mr. Weed or Mr. Fisher in regard to the object of their alleged employment by these gentlemen whom Weed and Fisher claimed represented the Mexican Government?—A. They were seeking to obtain some evidence from Mr. Exall with a view of overturning the evidence that he had previously given, as I under-

stood it. They sought to obtain from Exall evidence that would enable them to attack the claims that the La Abra Company had made.

By the CHAIRMAN:

Q. The evidence that they sought there related to documents or oral statements?—A. No; statements that he previously made; testimony that I understood that he had given; testimony that they desired to present through him; evidence that would controvert his previous testimony.

Mr. FOSTER. That don't answer your question.

The CHAIRMAN. I want to know if it related to documents or oral statements of Exall's at the time.

The WITNESS. Both.

Q. Both? What documents?—A. Didn't specify the documents.

The CHAIRMAN. Very well.

By Mr. KENNEDY:

Q. What was said, if anything, by Weed or Fisher in regard to compensation for Exall if he would testify as desired?

Mr. LINES. That question assumes in the latter part of it that the witness has answered that they sought to procure oral testimony.

The CHAIRMAN. He did.

Mr. LINES. Alone?

The CHAIRMAN. No; he said both.

Mr. LINES. The latter part of the question relates to oral testimony only.

The CHAIRMAN. He explained that.

Mr. FOSTER. The point that I now make is whether he has laid the foundation for the question he has now asked.

The CHAIRMAN. Go on.

Mr. LINES. I would like to note an objection to the question in that form; I don't want to ask it.

The CHAIRMAN. An objection would hardly lie to it. He is not obliged to put the question in the shape you want it.

Q. I ask the witness to answer that last question.

Mr. LINES. I make no objection to the question. It is in the alternative, by Weed or Fisher. I think the question he asked was, what was said by Mr. Weed, and so follow it up.

The CHAIRMAN. I will require the witness to state which one.

The WITNESS. Well, both. It was a question of compensation during the interviews I had. We had more than one interview. The specific sums mentioned came at the later interview.

The CHAIRMAN. The first interview, we are now talking about, I believe.

The WITNESS. The first interview was merely a matter of introduction, I becoming acquainted with the parties that represented the gentlemen I have referred to, and I was to take Mr. Exall's place in this negotiation, Mr. Exall declining to have any further conferences with them in person.

By Mr. KENNEDY:

Q. Go to the second interview, or any interview at which the subject of compensation for Exall's testimony was discussed, and state what was said on that subject by Mr. Weed or Fisher, or both of them.

The CHAIRMAN. State first the subsequent interview, and who was present.

The WITNESS. The interview that followed the one referred to took place at the Stock Exchange, in New York.

Q. When?—**A.** Within—very soon after the 21st. I don't know that I can say positively the date, but I think on the 29th of January, for the reason that I received a telegram at my residence, dated the 28th of January, from Mr. Fisher, in which he said: "Meet me to-morrow at 11 at Stock Exchange." And in response to that telegram I met Mr. Fisher the following morning at the Stock Exchange.

By the **CHAIRMAN**:

Q. Who else was there?—**A.** Nobody.

The **CHAIRMAN**. You wish to know what was said between Fisher and himself in regard to this compensation?

Mr. KENNEDY. Yes, sir.

The **CHAIRMAN**. Go ahead. It is all subject to whether Fisher was the agent of the Mexican Government.

Mr. KENNEDY. Go on, Mr. Kittelle, and state what was said at that interview by Mr. Fisher in regard to Exall's compensation.

The **WITNESS.** I don't know that there was anything very definitely said about compensation at that interview. That followed at a still later interview.

The **CHAIRMAN.** Go on to that, then.

The **WITNESS.** If you will allow me to tell you the things as they occurred, I can give you a better account of what passed between us—

Mr. FOSTER. I object to that.

The **CHAIRMAN.** We want what was said. We don't want your opinion.

The **WITNESS.** I wasn't going to give my opinion.

The **CHAIRMAN.** At the second interview you state that nothing was said about the compensation; that Mr. Fisher asked what the compensation of Exall was to be for the testimony they desired to procure. Is that the second interview?

The **WITNESS.** Yes, sir; said that Mr. Weed had promised him; that he had been assured that a large sum of money would be paid if they could command the testimony. Mr. Fisher replied by saying that he thought Mr. Weed was in error in reference to that; that he did not think any specific sum had been fixed upon.

Q. What was the specific sum that was mentioned?—**A.** Twenty thousand dollars.

Mr. LINES. A moment.

By the **CHAIRMAN**:

Q. By whom?—**A.** By Exall as having been stated by Mr. Weed. **Mr. Exall** told me—

By the **CHAIRMAN**:

Q. In the presence of whom?—**A.** In the presence of no one; in the statement made—

By **Mr. LINES**:

Q. That he had been assured by whom?—**A.** By Mr. Weed.

By the **CHAIRMAN**:

Q. Was Weed present at that time?—**A.** No, sir; not at that time. **Mr. FOSTER.** Has that testimony gone into the record?

Mr. KENNEDY. Certainly it goes into the record.

The **CHAIRMAN.** It goes out of the record unless you connect it.

Mr. FOSTER. What Exall said to him?

The CHAIRMAN. That, certainly, is not competent. Mr. Kittelle, I will take you in hand, and see if I can get this thing straightened out.

The WITNESS. I will be very glad to have you.

Q. You have now stated the first time that you and Weed and Fisher and Exall met, and the place?—A. Yes, sir.

Q. In that meeting, was anything said about compensation to be paid to Exall for changing his testimony, or furnishing new facts, or documents, in regard to his former statement?—A. All that he said in that interview, except Mr. Exall informed the gentlemen, in my presence, that hereafter all negotiations had in regard to the matter should be held with me.

By the CHAIRMAN. That is rather a curious fact. Why should he employ you to make the negotiations?—A. He didn't agree to carry out any negotiations with them, he said.

Q. Did you suppose, at that time, that you were negotiating to buy a perjured statement from Exall?—A. Not at all.

Q. You did not?—A. No, sir.

Q. Why should there have been any necessity for an intervener or somebody else to come in?—A. They wanted to ascertain—Mr. Exall wanted to ascertain what these people desired to do.

Q. Couldn't they tell him as well as they could tell you?—A. Yes, sir.

Q. What interest had you in it that made you a sort of broker about it?—A. None whatever, except that I was requested by my friend, Mr. Ely, to be present at that interview to ascertain from those gentlemen what they desired to do in the matter.

Q. You represented Mr. Ely?—A. I represented Mr. Ely; I represented him personally.

Q. Who else did you represent?—A. Him.

Q. Nobody else?—A. No, sir.

Q. Then, you represented Ely and nobody else?—A. So far as I know.

Q. You were then there by invitation of Ely to hear the conversation between them?—A. I saw Ely, not Ely alone; Mr. Exall and Ely together.

Q. At a conversation between Exall and Fisher and Weed and yourself?—A. Yes, sir.

Q. Did Mr. Ely employ you to do this?—A. He requested me to do it.

Q. Did he employ you?—A. Do you mean employed me?

Q. Paid you, or promised to pay you?—A. Not at all.

Q. Did you have any interest in the award?—A. None whatever.

Q. Did it merely for an accommodation of Ely?—A. As a personal friend, and not the slightest pecuniary interest.

Q. I suppose from your statement that Exall and the other two parties had really met, or had some correspondence, before?—A. I understood they had.

Q. And Exall had informed Ely of it?—A. I suppose so; I don't know.

Q. And, thereupon, you were sent in to see what took place, and to take the matter off Exall's hands?—A. Yes, sir.

Q. With the view now of selling his statement to the La Abra Company?—A. They desired to procure his—

Q. Did you do it with the view to sell his statement?—A. Not at all.

Q. I mean the Mexican Government.—A. Not at all.

Q. Was it with a view to prevent his making any statement to those people?—A. No, sir.

Q. Of what he actually knew, or of any incorrect impression that had been left by his former deposition?—A. Not at all.

Q. If you neither wanted to obtain Exall's fresh statement for the Mexican Government nor to prevent him from his changing his statement that he formerly made, what was your business?—A. My business was to ascertain what these gentlemen desired to do with Exall. I never knew anything about Exall's testimony in detail or in a general way. I did not know anything about it then, and do not now; do not know what position he occupied really toward the company, or what testimony he had given; never understood in detail, nor never cared to understand it; had no interest in it whatever. I went simply at the request of Exall, to represent him, to ascertain what the disposition of these parties was towards this matter. That was what I understood to be the object of my intervention.

Q. Did you conclude the negotiation with them?—A. There was no negotiations concluded.

Q. Why not?—A. I don't know why not. I don't know why it was not concluded.

Q. Did Exall conclude any statement to those men through you?—A. No, sir.

Q. Make any change of any statement he had formerly made?—A. No, sir; not through me.

Q. Did he deliver any documents that he had in his possession through you, or to you for them?—A. None whatever.

Q. So far as you know, nothing resulted from this except a negotiation attempted between these two men, representing themselves as the agent of the Mexican Government, or the agents of the Mexican Government, to procure a statement from Exall contradicting his former deposition?—A. I don't know whether it was contradicting his former deposition or testimony or what. I never knew what he had given—I never knew what his testimony was, if he ever gave any; so I can't say whether it was in reference to a deposition or what, but it was a matter growing out of his connection, as I understood it, with this company.

By the CHAIRMAN:

Q. Did Exall ever authorize you to sell or dispose of any statement that he would make, in regard to the La Abra claim, to the Mexican Government?—A. On the contrary, he regarded this as an attempt to buy him up that he resented, and he wanted to know the parties in the matter, and whom they represented and what they proposed to do. He never to my knowledge proposed to change his testimony nor to undo in any way any act he had previously said or done in connection with the matter. He resented the application made to him, and he wanted the matter to be within the knowledge of some other parties than himself.

Mr. KENNEDY. Mr. Chairman, can I take the witness now?

The CHAIRMAN. Yes, sir.

By Mr. KENNEDY:

Q. Did I understand you to say, at that second interview, that Fisher said to you that he thought that Webb—is it Webb?—A. Weed.

Q. Was mistaken when he mentioned the specific sum of \$20,000?—A. It was at the second interview.

Q. What did Fisher say in regard to that?—A. He said that he had no doubt the parties would pay liberally.

Q. What was said, if anything, in regard to shielding Exall from harm on account of any conflict between his testimony already given in

favor of La Abra Company and the testimony that those detectives were seeking?

Mr. FOSTER. At this second interview?

Mr. KENNEDY. No, I do not confine it to the second interview.

Mr. FOSTER. We want to confine it to the same interview.

Mr. KENNEDY. It does not make any difference whether these things happened at one interview or another. On cross-examination the witness can be asked when and where such and such a thing was stated.

The CHAIRMAN. No.

Mr. KENNEDY. Then I will follow your suggestion.

The CHAIRMAN. The time and the place of the interview must be given; otherwise, I would not receive it.

Q. Have you stated substantially all that happened at this second interview?—A. I think that I saw Mr. Fisher once before then. I met him, I think, once in the street, and had a little conversation with him in the street, and I think that this interview at the Stock Exchange occurred on the 29th of January, and that it followed the interview that I had with him on the street. I met him one day in Nassau street, and then he telegraphed to me, and I think this was the third interview at the Stock Exchange, now referred to, and at that time the question of protection to Exall came up.

Q. What was said on that subject?—A. He said that Mr. Exall need not fear any results from anything he might do—any change he might make in his testimony—as the parties were very strong and would fully protect him.

Q. Did he name the parties?—A. He named Mr. Zamacona, especially. He seemed anxious to have Mr. Exall and Mr. Zamacona meet; told me that Mr. Zamacona was coming to the city in a few days, and desired that Exall and Zamacona should have a personal meeting.

Q. Was any person named but Zamacona as the party who would protect Exall?—A. By Mr. Weed, there was.

Q. One moment. I want to follow the suggestion of the chairman.

By Mr. FOSTER:

Q. You are continuing the interview at the Stock Exchange now?

Mr. KENNEDY. I can straighten this. If you gentlemen on the other side would give me a fair show, I could get this witness to state his story consecutively without any trouble.

Mr. FOSTER. We interrupt you to understand the question. We want to know whether this was the Stock Exchange interview.

The WITNESS. I am speaking now of the interview with Fisher on the 29th of January, the day following the telegram.

Mr. LINES. Then you don't want to say what Weed said, because he was not there?

By Mr. KENNEDY:

Q. Was Weed present at that interview?—A. Not at all.

Q. State to the committee when and where you had your next interview on this business.

The CHAIRMAN. And with whom?—A. I saw Fisher once or twice after that, but I had an interview with Mr. Weed on the 27th of February.

A. Where was that?—A. That was 49 Vesey street, at the office of Robert Malcolm, the printer.

Q. State what Weed said to you at that interview?—A. At that interview Mr. Weed read me an extract of—

Mr. LINES. Let me understand that. You met him in response to a letter?

By the **CHAIRMAN** :

Q. What year?—**A.** 1878. I received a letter—his note was dated the 26th of February and addressed to me at my residence—in which he said, “I would like to see you at 11 a. m. 27th inst., on a matter of importance.”

Mr. LINES. Mr. Kennedy, are you going to put these various memoranda in here?

Mr. KENNEDY. I have not offered them in evidence. Certainly, if you want to examine them and put them in evidence, you can. The witness, without suggestion from me, seems to be refreshing his recollection from papers in his hands.

Q. Now, proceed, Mr. Kittelle, and state what was said by Mr. Weed at the last interview.—**A.** Well, in order to satisfy me—

Mr. LINES. No, not that. Say what he said.—**A.** He read an extract—he read portions of a letter that he said was from Mr. Lines, and whether I saw his signature to it or not I don't know; but he read portions of a letter to me with a view that I might know whom he was representing. I asked him definitely for the names of the parties that stood behind him in this matter, and what assurance Mr. Exall had that the money would be forthcoming if he consented to their proposition.

Q. Well, go on and state what Mr. Weed said to you on that subject.—**A.** At that time Mr. Weed said the names—named Mr. Lines, General Slaughter, and Mr. Zamacona as the parties, and said the money would be furnished by Mr. Zamacona, but he believed that the Mexican Government stood behind him, or stood behind them all.

Q. Was anything said at that interview in regard to immunity for Exall?—**A.** Oh, certainly, that was a part of the—he confirmed what he said; he said the same in substance as Fisher said to me. He said the parties were strong, and would protect Mr. Exall from the consequences that might result from the change of his testimony, or for his furnishing them with the desired testimony.

Q. Was anything said at that interview in regard to a meeting between Mr. Exall and Zamacona?—**A.** Yes, sir.

Q. State what was said on that subject.—**A.** Mr. Weed said that Mr. Zamacona would come over at any time that would be convenient to him.

Q. Now, did you have any further interview with either Weed or Fisher, and, if so, when and where?—**A.** Nothing. Never met them. Never had any conversation with them after that. That was the last interview I had with them.

Q. After that last interview, what report, if any, did you make on the subject to anybody?—**A.** I stated the facts—I stated the facts as they occurred.

Q. To whom?—**A.** Mr. Ely.

Q. Did you make an affidavit at that time?—**A.** Yes, sir.

Q. Of those facts?—**A.** I did.

Q. I would like to have you look at this paper and state whether that is the affidavit that you made then [showing witness paper].—**A.** That is my signature.

Mr. KENNEDY. That is made on the 25th of April, 1878.

The CHAIRMAN. Do you wish to put that in evidence?

Mr. KENNEDY. No, sir; I do not offer it now. I just wanted it identified by the witness. That is all, Mr. Chairman.

The CHAIRMAN. Do you propose to keep this paper as a private paper? Mr. KENNEDY. No, sir. It is at the service of the other side or the committee.

By the CHAIRMAN:

Q. What papers are those you have in your hands?—A. A telegram from Fisher and a letter from Mr. Weed.

Q. Where did you get them?—A. I got this from Mr. Kennedy this morning.

Q. Whom did you deliver them to?—A. I delivered them to Mr. Ely.

Q. When?—A. About the time—prior to the making of my affidavit.

Q. Have you ever seen them since?—A. Never have seen them until to-day.

The CHAIRMAN. Let me see what they are.

The WITNESS. That is a telegram from Fisher.

The CHAIRMAN. It is from French's Hotel, dated January 28, and reads as follows:

Meet me to-morrow at 11 at Stock Exchange.

T. FISHER.

By the CHAIRMAN:

Q. You and Mr. Fisher met after that?—A. Yes, sir; on the following day. Here is the letter from Mr. Weed, dated February 26, 1878.

The CHAIRMAN. It reads as follows:

NEW YORK, *February 26, 1878.*

DEAR SIR: I would like to see you at 11 a. m., 27th instant, on a matter of importance.

Yours, etc.,

W. S. WEED.

G. W. KITTELLE, Esq.

Q. Do you know where Mr. Weed is?—A. No, sir.

Q. Have you ever heard of him since that time?—A. I don't know as I have.

Q. Have you any other paper there?—A. There is a letter (from Fisher) dated the 4th of February.

NEW YORK, *February 4, 1878.*

DEAR SIR: The Mexican minister is expected to arrive in this city either to-morrow or Wednesday, and I should like to see you before I see him. Will you please let me know what time and place it would be convenient for you, and I will call upon you? Please address me by bearer, or in care of the door-keeper of the Broad street entrance of the Stock Exchange.

Yours, respectfully,

THOMAS FISHER.

CHARLES EXALL, Esq.

The WITNESS. There is the envelope in which it was contained.

Q. Who handed you that letter?—A. That I received in connection with the other two papers. That was handed to me by Exall and by me delivered to Ely with these. That is a memorandum that I show you.

Q. I understand you to say that these papers have been in the keeping of Ely, so far as you know, until the present?—A. Yes, sir; I never saw them until this morning, after I delivered them to him.

The CHAIRMAN (to the witness). I will read this affidavit to you.

STATE OF NEW YORK, *City and County of New York:*

GEORGE W. KITTELLE, being duly sworn, says:

I reside and am a householder at No. 18 East Thirty-third street, in said city, and I know Sumner S. Ely, Charles H. Exall, William S. Weed, and Thomas Fisher, of said city.

On the 21st day of January, 1878, at about 4 o'clock p. m., pursuant to the request of said Ely, and for reasons particularly stated in his affidavit, verified April 18, 1878, and hereto prefixed, I went to the place of business of said Exall, at No. 62 Broadway, in said city, and was then and there introduced by him to said Weed, a detective, and Exall at the same time stating to said Weed that any further interviews, and any negotiation in the matter with reference to which he had called to see him (Exall) must be had and carried on with me. I was then and there also introduced to said Fisher, also a detective, who, I learned, was acting in concert with said Weed in the matter. After some general conversation that interview, which was very brief, terminated.

Subsequently, and on or about the 22d, 25th, 29th, and 30th of said January, I had interviews with said Fisher in said city, and on or about the 27th of February, 1878, I had an interview with said Weed in said city. None of said interviews were solicited by me, but were had at the request of either said Fisher or Weed or were adjournments of a previous interview had at such request. The interview with said Fisher on said 29th of January was requested by him by a telegram dated the 28th January, addressed to me and in these words: "Meet me to-morrow at 11 at Stock Exchange. T. Fisher." And the interview with said Weed on said February 27 was requested by him by a letter dated at 49 Cedar street, New York, February 26, 1878, addressed to me, and in these words:

"DEAR SIR: I would like to see you at 11 a. m., 27th inst., on a matter of importance.

"Y'rs, etc.,

"W. S. WEED."

Said original telegram and letter are in the possession of said Ely.

The object of each said interview on the part of said Fisher and of said Weed was the obtaining from said Exall of evidence with which to attack as fraudulent and aid in setting aside the award made in favor of La Abra Silver Mining Company against Mexico by Sir Edward Thornton, the umpire, under the treaty between the United States and Mexico of July 4, 1868; and the giving of such evidence, which they expressed themselves as very anxious to obtain from said Exall, was always the subject of conversation by them, respectively, in said interviews, as was also how much would be paid to or made by said Exall for such evidence. At one of said interviews with said Fisher, I stated to him that I had understood Mr. Weed had said to Mr. Exall that such evidence would be worth \$20,000 to said Exall, to which said Fisher replied that he thought said Weed was mistaken, that he did not think the payment of any specific sum had as yet been authorized by the parties back of them, but that they would pay liberally for any evidence helping that purpose, and that Mr. Exall could make more money by furnishing such evidence than in any other way. Mr. Fisher also said that if such evidence conflicted with evidence which Mr. Exall had already given in the case, he need have no apprehensions on that point, as he would be kept harmless and protected by the parties behind them, who were very strong.

In the interview had with said Fisher on or about the 30th day of said January, he said he wished Mr. Exall to go and see Mr. Zamacona, the Mexican minister, with reference to giving such testimony, and that he (Mr. Fisher) expected said Mexican minister in the city in a few days. At said interviews, held with said Weed on or about the 27th day of said February, he read to me portions of a letter which he said was written by Mr. Lines, the attorney of Mexico in Washington, which portions seemed to be instructions as to the particular points on which it was desirable to get evidence from said Exall. Mr. Weed said he did not know how Mr. Exall was situated, but that it was an opportunity for making a good deal of money that seldom occurred; that it would be made cash to him for evidence such as was desired.

I asked Mr. Weed who were the parties behind him—who would be responsible for his engagements, and furnish the money that it was proposed to pay Mr. Exall; and said Weed replied that Mr. Lines, the Washington attorney, General Slaughter, also at Washington, and Mr. Zamacona, the Mexican minister, were the parties; that the money was to be furnished by Mr. Zamacona, and that he supposed the Mexican Government backed them all, and he said that either or all of said parties would come on to New York and see Mr. Exall on the subject if he would request them by telegraph or letter to do so; that he (Mr. Weed) was anxious to arrange for an interview between Mr. Exall and Mr. Zamacona, and that he (Mr. Weed) could do so at any time. Mr. Weed also said that Mr. Exall need have no fears because the evidence he might furnish did not agree with his previous testimony; that he would be protected and kept harmless; that Mexico was strong and able to do so. I communicated what was said and done at said interviews to said Ely from time to time as they occurred, and I also made known to said Exall the greater part of said conversations.

I took into consideration all that said Fisher and Weed said to me, because I promised them I would do so, and I have no doubt but that they acted in the matter on

the theory that the desired evidence could be truthfully furnished, but the whole thing seemed to me to be nothing more or less than an attempt on the part of somebody, acting through them, to buy up evidence made to subserve a certain purpose.

GEORGE W. KITTELE.

Sworn to before me April 25, 1878.

One word having first been written over an erasure.

ADOLPH SCHLEICHER,
Notary Public, New York County.

[Notary public seal.]

By the CHAIRMAN:

Q. That is your affidavit?—A. That is my affidavit.

Q. Was that as full a statement made at the time as you were capable of making of the transaction?—A. Yes, sir; I have no doubt of it.

Q. If you have added anything to it on this examination, do you think your memory now is better than it was then?—A. No, sir; I don't think it is. That covered the case exactly. The questions put to me brought matters up of a later date—a little mixed up about the interviews.

Q. You seem from this affidavit not quite to understand definitely what they were trying to do. Were they trying to get Exall to unswear something he had sworn to before, or were they trying to get from him some documents that they thought would show there was fraud in this award? That seems to be the impression upon the last clause of it; for instance, "I have no doubt that they acted in the matter on the theory that the desired evidence could be truthfully furnished."—A. My impression at the time was that these gentlemen considered that Mr. Exall could, perhaps, truthfully furnish just what they wanted.

Q. Then, you did not get any impression, as I understand your affidavit, at the time that an effort was being made to suborn Exall to swear to a falsehood?—A. They were willing to pay pretty liberally for what he would give.

Q. Can't you answer that last question, because I think it is a matter due to you that you should answer? The question is this: Then, you didn't get any impression, as I understand your affidavit, at the time that an effort was being made to suborn Exall to swear to a falsehood?—A. My answer is embraced in the closing terms of my affidavit there as explicitly as I can make.

Q. Suppose you try it again.—A. I think the detectives, Fisher and Weed, thought that Mr. Exall could furnish the testimony they wanted truthfully; but, at the same time, I was also of the impression that they were determined to get the testimony.

Q. Who were determined?—A. The parties they represented.

Q. Where did you get that impression from?—A. From all that I saw in reference to the matter.

Q. State the facts.—A. That they were willing to pay liberally for the information.

Q. What kind of information—truthful or false?—A. I can not tell whether it would be truthful or false.

Q. Yes; you know whether at the time you thought they were trying to get falsehood or the truth out?—A. I can not answer that question.

Q. You don't know whether you thought they were trying to get the truth out?—A. I thought they were determined to get the information they wanted from him, but I concluded also that the detectives—

Q. Upon what do you base your statement that you thought the agents back of the detectives were trying to get a statement of Exall that was a lie?—A. Because they were willing to pay so liberally for the information.

Q. Wouldn't they be as willing to pay for truthful information as for false information?—A. I can not say.

Q. If you thought so, why didn't you put that in your deposition?—A. Simply because I could not tell what the motives of these gentlemen were.

Q. How can you tell now, if you couldn't tell then?—A. I can only tell my impressions.

Q. Why didn't you put your impressions in the deposition?—A. I think I did so in my affidavit.

Q. "Acting through them to buy up evidence made to subserve a certain purpose." You used that language in your deposition?—A. Yes, sir.

Q. Is that an effort to buy up false or true evidence?—A. They wanted the evidence.

Q. Was it your intention in the use of those words to say that you believed at that time that their purpose was to buy up evidence that was false—to cause a man to swear to a lie about it?—A. I can't say that they wanted the man to swear to a lie, but they wanted the evidence that the man could give; I can't say whether it was true or false.

Q. You left the impression on the subject that you expected at the time that they were trying to suborn Exall to get the testimony?—A. Yes, sir.

Q. If you had that impression at the time, why didn't you state it at that time?—A. I say it in justice to the detectives—I meant to say that the impression most fixed upon my mind was that the detectives thought Exall could truthfully state all what the parties wanted him to say.

Q. But you say "the whole thing seemed to me to be nothing more or less than an attempt on the part of somebody, acting through them, to buy up evidence made to subserve a certain purpose"?—A. Yes, sir.

Q. Did you mean by that to say that you believed at the time that an attempt was being made to suborn perjury?—A. I won't say that. I would not like to say that.

Q. You know what the impression left at the time was?—A. If it is not clearly stated there, I am incapable of stating it. I can say only in substance what I stated there. I would not like to say, but my impression was they were determined to get this testimony, and that they would liberally pay for it.

Q. Whether it was false or not?—A. I won't say.

Q. You won't say that?—A. No, sir.

Q. It is hardly fair to yourself to leave it at that?—A. I am willing to leave it at that and let anybody judge of their motives.

Q. If you believed the object of these men—Zamacona, Lines, and Slaughter—

The WITNESS. Neither of whom I ever met.

Q. If you believed their object was to procure testimony that was false from Exall, and that reversed his former statement—if you had that impression—it was only due to them and to you that you should state the particular fact upon which you came to that conclusion.—A. Well, my affidavit there covers the ground as fully as I can possibly cover it.

Mr. KENNEDY. I have an objection to that line of examination, namely, that all questions to the witness regarding his impressions, whether present impressions or impressions that might or might not have been put into his affidavit, are open to the objection that the impression of the witness could not be material, and that all that the wit-

ness had to do was to state the facts, and leave inferences to be drawn by the parties concerned.

The CHAIRMAN. And I say it was very material to the credibility of any witness whether he would lend himself, at the instance of a third party, to negotiate with another man to reverse his deposition, and I wanted the witness to exculpate himself, as I think he has fully done, from any such position. That was the reason of my question. Mr. Kennedy, have you any other witness here to-day? Have you closed with the witness?

Mr. KENNEDY. Yes, sir; and I have no other witness here to-day.

CROSS-EXAMINATION OF MR. KITTELLE.

By Mr. LINES

Q. Mr. Kittelle, I understand you to explain your affidavit by saying that you thought that the two detectives, of whom you spoke, were engaged in an attempt to get something that Exall might truthfully furnish, but that you thought on the part of the persons whom these detectives represented the effort was a different one; I would like to have a little explanation of that.

Mr. KENNEDY. My objection to that question is that it has not stated correctly what the witness has said in that particular. His statement, to which counsel has referred, is not any explanation of his affidavit, but simply an expression of his views in regard to the motives of the two detectives.

Mr. LINES. I will withdraw that question and ask this, quoting the last paragraph of your affidavit:

I took into consideration all that said Fisher and Weed said to me, because I promised them I would do so, and have no doubt but that they acted in the matter on the theory that the desired evidence could be truthfully furnished, but the whole thing seemed to me to be nothing more nor less than an attempt on the part of somebody, acting through them, to buy up the evidence to subserve a certain purpose.

Now, I want you to explain, if you can, what you meant by the supposition that the agents were acting in good faith to get evidence that could be truthfully furnished, but that behind this they had a different motive.

Mr. KENNEDY. Mr. Chairman, that was fully gone into by the witness in answer to your questions.

The CHAIRMAN. I think the question is a proper one.

A. I only knew who they were representing by the statements they made to me, Mr. Fisher and Weed, but from the determination of the parties—

Q. What parties?—A. Fisher and Weed, either to secure from Exall the testimony they were seeking and the promise of protection to him for testimony or statements he might make, that conflicted with any previous evidence or statements he had given, was the evidence that the parties that they represented were determined to procure from Exall information that would serve their purposes; that the parties were authorized—if their statements to me were to be believed—were authorized to pay a very considerable sum of money to procure from Exall such statements as they wanted, knowing they were different materially from the statements he had hitherto made; those are the only reasons I can give you for the impressions that rested upon my mind from those several interviews.

Q. You may consider that an answer to my question, but I do not.

Mr. KENNEDY. It is not a satisfactory one, evidently.

Mr. LINES. It is not an answer at all, Mr. Kennedy.

Q. What led you to suppose that persons, acting through agents, might wish "to buy up evidence made to subserve a certain purpose" (I want to call your attention to that), and that the agents, through whom those persons were acting or supposed to be acting, and through whom alone they were acting, only desired to secure evidence that could be truthfully furnished, and was not "made to subserve a certain purpose." I want to get your idea between the action of the principal and the action of the agent—the motive.—A. I can only answer you as I did; that I believe there was a determination to procure from Exall such testimony as would enable them to contradict his previous testimony.

Q. How could you know what the determination might be except from the agents?—A. That is the only way I could know it.

Q. You believed them to be acting in good faith, but the parties employing them to be acting different?—A. It seemed to me that the detectives were under the impression that Exall had made statements that were incorrect, and if he gave them the testimony that they wanted he would be telling the truth.

Q. Could not the parties behind them have been under the same impression?—A. Perhaps so. I do not judge their motives at all. I only tell you the impressions I received from the result of the negotiation.

Q. I ask you why you used these words in your affidavit, "to buy up evidence made to subserve a certain purpose," and you now say you do not judge the motives of the gentlemen you understood to be behind Fisher and Weed.—A. I judge their motives so far as to say what I do. I do not know who they are. I do not know who the gentlemen are, but anybody who offered to pay a very large sum of money for testimony that is entirely contrary to the testimony previously given must have had some purpose—must have wanted to serve some purpose.

Q. That is not the point.

Mr. KENNEDY. I think that is exactly the point you are arguing with the witness.

Mr. LINES. No; that is not the point of my question. Here is the proposition, that somebody behind these gentlemen was trying "to buy up evidence made to subserve a certain purpose"—manufactured evidence. Is that the construction that you intended to put upon that?

A. Let me say again—

Q. No; I want an answer to that question, if you please. Do you mean by "evidence made to subserve a certain purpose," manufactured evidence—manufactured for a purpose?—A. If Mr. Exall should swear to something very different to what he swore to then I think it would be manufactured.

Q. How is that?—A. I think if he had sworn to a certain statement—if he had sworn to certain statements—and then contradicted himself, it would be manufactured testimony.

Q. You then intended manufactured evidence by those words, "evidence made to subserve a certain purpose"—what is ordinarily known as manufactured evidence?—A. Well, if he contradicted himself at one time—if he had sworn to certain circumstances and gave certain evidence at one time and contradicted it at another, I think he would be manufacturing his evidence.

Q. It would be manufactured?

Mr. KENNEDY. Mr. Chairman, it is entirely improper to try to make this witness decide, or even to express an opinion, upon the question whether in case of a conflict between the deposition that Exall had

made, which was submitted to the Mixed Commission, and the testimony that was desired from him. It is entirely improper to make the witness express an opinion as to which of these two conflicting depositions would have been the true one.

Mr. LINES. I am not trying to do that. You misunderstand me. You interrupted me before I finished. I was about to ask him which he considered the manufactured testimony; the one that expressed the truthful one, or the one that expressed the false one?—A. The one that expressed the falsehood, decidedly.

Q. Suppose it had been the deposition which you say they were trying to secure a contradiction of that was false, and the deposition which they were trying to procure, as you say, that was the true one, you, knowing nothing of either, would apply the term manufactured to the one without knowing what the former one had been; would you apply the term manufactured to the former one?—A. No, sir; not without knowing which was genuine and which was false.

By the CHAIRMAN:

Q. Did you form any opinion that these parties, Lines—Zamacona, and Slaughter—were trying to procure from Exall a false statement or true statement?—A. I did not form any opinion as to that at all.

Q. As to whether they were trying to get a false statement or a true one?—A. I did not.

Q. Did you believe, at the time, that this arrangement was being conducted for the purpose of getting from Exall a false statement or a true one?—A. I can't answer that, for I don't know what their purpose was.

Q. You had no belief at the time as to what their purpose was?—A. All the belief that I had I have stated in my affidavit.

Q. Did you have any belief at that time that they were trying to procure from Exall a false statement?—A. I don't connect those gentlemen with it at all, for I don't know of my own knowledge whether they had anything to do with it.

Q. Had you any belief at that time that the purpose of this proceeding was to extract from Exall a false statement?—A. I can't say that I have the impression that that was—I can't say that I have.

The CHAIRMAN. Let that end it.

Q. Mr. Kittelle, who asked you to make this affidavit?—A. Mr. Ely.

Q. Did you know for what purpose it was to be used—in what proceeding?—A. To be used in the La Abra proceeding. I knew that very well.

Q. What proceeding did you understand was under way at that time?—A. I understood that they had presented a claim against the Mexican Government; that the award had been made, which the Mexican Government were proceeding to set aside.

Q. Did you understand that it was to be used in any debate in the House of Representatives or any other body?—A. I didn't know how it was to be used.

The CHAIRMAN. Was there any reference made in the House of Representatives to this evidence?

Mr. LINES. There was a reference, without publication of it. If the affidavit had been published at the time it would have been a very different thing from the reference that was made.

Q. Where were you living in April or January or February, 1878?—A. Eighteen East Thirty-third street, New York City.

Q. How did you come to know Mr. Exall?—A. Introduced to him by Mr. Ely.

Q. When?—A. About that time.

Q. About what time?—A. The month of January, previous to these interviews.

Q. Was anything said at that time about any attempt on the part of anybody to secure—anything said by Ely to you about any attempt to secure Mr. Exall's evidence?—A. Yes, sir; explanation was made to me at the time that Exall had been approached by these gentlemen, and he had—that he had considered the approach an unwarranted one—that he had decided, in his own mind at first, that he would resent it, but finally concluded

Q. Who is this—Ely?—A. No, I am speaking about Exall. I learned something about the matter from Mr. Ely first, because, at that time, I didn't know Exall at all. I was introduced to Exall by Ely.

Q. At the time you were introduced, Exall told you what?—A. That these gentlemen had been to see him in reference to this matter and what they wanted from him, and he expressed himself—he expressed a good deal of indignation that they should approach him on the subject, and it was with a view of ascertaining exactly what, fully what, their purpose was that he turned over the representations to me.

Q. Who was this?—A. I am speaking of Exall now.

Q. All this at the time you were introduced to Exall by Ely?—A. Yes, sir; the first interview I had with him.

Q. Did Ely say anything about his purpose of bringing you two together?—A. Yes, sir; it was expressly understood that I was to represent Exall in the matter for the purpose of ascertaining what these gentlemen wanted and what they were prepared to do.

Q. Fisher and Weed?—A. Yes, sir.

Q. Where was Exall living at that time?—A. I believe in New York.

Q. Do you know what house?—A. He was a clerk for Ewing & Tuttle, 21 New street.

Q. I was speaking of where his residence was?—A. I don't know.

Q. Did he ever live with you in New York?—A. No, sir.

Q. Did he ever stop with you in your house?—A. No, sir; I don't suppose I ever saw him three or four times in my life.

Q. And then at those interviews you have described?—A. Yes, sir; the interviews I had in his office. I never saw him anywhere else but at his office.

Q. At which interview was it that Mr. Weed, if that is his name, read you a letter?—A. That was the interview late in February, in Cedar street.

Q. What was Weed doing there on Cedar street?—A. I don't know whether that was his office or whether he made an appointment there or not.

Q. It was at the office of a printer by the name of Malcolm?—A. Yes, sir.

Q. Was Malcolm present?—A. No one present but Weed and myself.

By the CHAIRMAN:

Q. To whom was that letter addressed?—A. To me.

Q. I mean the letter that was read to you; the letter a part of which was read to you by Weed?—A. A letter that Weed said was addressed by Mr. Lines?

By Mr. LINES:

Q. By myself.—A. I didn't know that you were the Mr. Lines.

Q. I am. He read this letter to you, as I understand, for the purpose

of showing to you some authority?—A. Yes, sir; that he had in the matter.

Q. Did you ask to see the letter?—A. I did not.

Q. You were satisfied?—A. I believed what he said, of course.

Q. You believed what he said?—A. I believed he was reading the letter from Mr. Lines. I hadn't any doubt of it at the time, and yet it might not have been from him. I didn't see the signature of the letter.

Q. Did you ever see Mr. Weed before?—A. Yes, sir; I had seen him before that several times.

Q. How came you to have such confidence in him?—A. I don't say there was any special exhibition of confidence. I didn't suppose he would read me a bogus letter.

Q. You were willing to accept his statement as to his authority?—A. Well, I believed, as I tell you, that he was reading a letter from Mr. Lines.

By the CHAIRMAN:

Q. Did you take any memorandum, at the time, of the portions of the letter that he read to you from Mr. Lines?—A. I did at the time.

Q. What did you do with it?—A. Turned my memoranda over to Mr. Ely. I suppose I gave him the information upon which this affidavit was drawn.

Q. At the same time that you turned over the other papers?—A. Yes, sir.

Q. Have you ever seen that memoranda since?—A. Never have seen the memoranda since.

Q. Never have seen the memoranda since?—A. No, sir.

Q. How can you recollect the contents of the memoranda of a letter?—A. From the dates—

Q. The letter which Weed read to you; a part of which he read to you?—A. I was meeting Mr. Ely frequently at the time, and I believe I gave him the information whenever I met him.

Q. I am speaking now of the memoranda which you say you took at the time.—A. I made a memorandum of the interview I held with these parties and where it was held.

Q. I don't think you comprehend my question. I ask you if you had memoranda of the contents of that letter?—A. Oh, I did not.

Mr. KENNEDY. I am sure he didn't understand you.

Q. Why didn't you do that?—A. I can't tell you; I can't tell you why I didn't do it.

Q. Did you make any report to Mr. Ely?—A. I told him what was said to me about it.

Q. Did you tell him from memoranda what had been read to you from this alleged letter?—A. I have no doubt that I did, sir.

By the CHAIRMAN:

Q. What proposition was contained in the parts of the letter that you heard read?

Mr. LINES. I don't know who Mr. Weed is, but very likely he can find him.

By the CHAIRMAN:

Q. What proposal was contained in the parts of the letter which you said Weed read to you as coming from Lines?—A. There was some particular testimony that they wanted; that letter contained a request for a certain kind of testimony, or certain particular testimony, to be obtained from Exall, but what it was I don't know.

Q. Was it documentary or otherwise?—A. That I can't tell you. It related to the special testimony they wanted to obtain from Exall.

Q. Well, get it out a little more particularly than that. Did it relate to the letter-book?—A. I can't tell you,

Q. Did it relate to the records of the company?—A. I can't remember.

Q. Did it relate to anything anybody had said?—A. I can't tell you what it did relate to, only it had reference, as I understood, to what they desired, but it was read to me more, as I understood, at the time, with a view of showing me that he was represented—that he had the authority to represent somebody.

By the CHAIRMAN:

Q. If this was a corrupt proposal in this business, it seems to me it must have been contained in that letter of Lines to Weed.—A. I didn't see it.

Q. Did that contain any proposal to get any particular testimony from Exall?—A. It did, but I can't tell what it was that he wanted particularly.

Q. You didn't ask?—A. Not in detail, at all.

Q. You were not particular to ascertain whether there was any corruption in this?—A. No, sir; not so much as to find out what it was to Mr. Exall.

Q. What purpose could you subserve for the benefit of Exall—for the benefit of the La Abra Company—unless you could detect that there were some efforts made through this general proceeding to obtain false testimony or some other kind of testimony?—A. Well, I believed at the time that the people who represented this company supposed there was an effort made to buy up Exall; that somebody wanted to buy him up.

Q. You believed at the time that the people that represented the company—supposed—A. I believed—Mr. Exall told me, in so many words, that they wanted to buy him.

Q. That they wanted to buy him up?—A. Yes.

Q. To do what?—A. To swear to such evidence as would neutralize his former testimony.

Q. To swear truly or falsely?—A. That I can't tell you; I can't answer that question.

Q. Can't answer that?—A. No, sir.

By the CHAIRMAN:

Q. Now, I want to know from you whether, in the extract that you heard read by Weed—in the letter purporting to come from Lines—there was any proposal that Exall should furnish false testimony or that he should furnish true testimony?—A. I can only repeat, Senator, what I previously said, that the letter was a request for a certain kind of information from Exall, and more than all—

Q. Do you mean a true kind or false kind?—A. That I can't tell you—more than all to secure a personal interview between Exall and Mr. Zamacona.

By Mr. LINES:

Q. That was the important thing?—A. That was the great desire, to have those two gentlemen meet.

By the CHAIRMAN:

Q. Can you state on your oath that that letter contained any proposal to Exall that he should make a true statement or false statement?—A. No, sir; of course not. The letter was to Mr. Weed.

By Mr. LINES:

Q. Did Mr. Fisher ever show you what purported to be a letter from anybody?—A. No, sir.

Q. Did he ever suggest that Mr. Exall should give any deposition or affidavit in this matter?—A. Certainly.

Q. He did make such a suggestion?—A. Certainly.

Q. Now, on what points?—A. I can't tell you what the points were. I didn't go into the detail.

Q. Did Fisher go into detail?—A. He only spoke of it in a general way.

Q. What kind of an affidavit did Fisher say that Exall could make?—A. Fisher's proposal was—

Q. No. What kind of an affidavit, no matter what his position was?—A. No special kind of affidavit; no special affidavit was mentioned to me.

Q. An affidavit to what end?—A. He wanted testimony from Mr. Exall contradicting his former evidence, and promised to protect him from all harm if he gave it.

Q. Did you happen to know when Mr. Exall had testified in this La Abra matter?—A. Never knew; no, sir. I am not familiar with the details of the case whatever in any way.

Q. Did Exall exhibit any fear as to any possible prosecution on account of his testimony?—A. Not to me.

Q. This was in 1878, in January and February?—A. Yes, sir.

Q. I will ask you this: Did Mr. Fisher or Mr. Weed ever say in these interviews that they wanted documents and only documents from Exall?—A. No, sir; not that I remember.

Q. Did they ever say they wanted documents from Exall?—A. I don't remember whether they did or not.

Q. Your memory fails you on that point?—A. I don't remember as to that.

Q. Did Mr. Exall ever say to you that he had documents relating to the affairs of the La Abra Mining Company?—A. No, sir.

Q. Let me ask you what you said at the first interview that you had with Mr. Fisher that, as I understood it, induced Fisher to seek a second interview?—A. The question was simply a formal one, and in addition—

Q. What did you say at that interview that led Fisher to believe you were negotiating with him on the subject?—A. Because Mr. Exall said to me in the presence of both those gentlemen that any further interviews touching this matter must be held with me, and not with him, and they themselves suggested it would be better.

Q. Who was it that suggested that—Fisher or Weed?—A. It was Mr. Weed that suggested that.

Q. At the second interview, they gave you to understand that they wanted some sort of evidence?—A. I think it was the third interview that they wanted Mr. Exall, as I told you, should give testimony that would be valuable, and whether it was documentary or otherwise I am not able to tell you.

Q. In this interview, when you went to the Stock Exchange to see Fisher—that was the second interview, wasn't it?—A. That was the third, I think, and, possibly, the fourth.

Mr. FOSTER. He met him in the street.

Q. There was nothing passed at that time; you asked Mr. Fisher, if I understand you, to state what the compensation would be?—A. I told

him Mr. Weed had said it would be \$20,000 to Mr. Exall if he would give his testimony.

Q. You told him that; how did you know that?—A. Exall said such an offer had been made; that Weed had suggested it to him, and he then replied to him that he thought Mr. Weed was mistaken about that; that he didn't think any special sum had been offered, but that the parties, he thought, were willing to pay liberally.

Q. And then you asked him what he meant by that, or how much it would be?—A. I don't think I did at that time.

Q. I understood you to say in your direct examination that you did; that you asked Fisher what the compensation was to be. I took down your words here.—A. I think I said that he, Fisher, thought Weed was mistaken about the same.

Q. I am trying to get at what you said to Fisher; if you asked what the compensation was to be?—A. I don't think I have anywhere stated that Fisher stated it would be \$20,000.

Q. I am not asking that; if you asked Fisher what the testimony would be?—A. Yes, sir; I asked him what it would be and what parties he represented.

Q. On the matter of compensation, you asked him what the compensation was to be?—A. Yes.

Q. What was his answer?—A. He said he did not know what it would be, but it would be liberal.

Q. Mr. Weed was not present at the stock exchange?—A. Not at all, sir.

Q. Did you report that to Mr. Exall?—A. If I did to Exall I did to Ely. I think I did to Exall also.

Q. That the compensation was to be liberal. Now, at the third interview, did you ask again what the compensation was to be?—A. I can not tell you whether I repeated the question to him or not; I think I only held one conversation with Fisher in reference to that.

Q. What was your motive for inquiring what the compensation would be?—A. That was one of the points they wanted to ascertain.

Q. Who wanted?—A. Mr. Ely and Mr. Exall both desired to know.

Q. Then it was to draw Mr. Fisher out?—A. Exactly; to ascertain from these gentlemen what they were willing to do—what they wanted to do.

Q. For the purpose of what?—A. For the purpose of getting Exall's testimony.

Q. No; I am asking what you were trying to get this out of him for?—A. I was not trying to get anything out of him specially. I was trying to get from Exall exactly what they wanted to do with him.

Q. You wanted to draw it out from Fisher; was that it?—A. No; I did not want to draw out anything.

Q. I do not mean with a view of acceptance; I may ask you that afterwards. Did you ask this in a casual way or sincerely?—A. I stated what Weed had said in reference to the matter, that the testimony—that Exall could make a good deal of money that way, and such an opportunity seldom offered, and would be worth \$20,000 to him, and he replied as I tell you. Fisher never said he would give any specific sum. The specific sum named came from Weed.

Q. In response to that interrogatory you never got any sum named?—A. Except the statement that they would pay liberally and would protect him.

Q. Do you know anything of Weed's offer to Exall of \$20,000?—A. Only from Exall.

Q. You met Weed after that?—A. Certainly.

Q. Why didn't you inquire of him about that?—A. I did.

Q. What did he say?—A. It was from him that I learned that the money would be furnished by Mr. Zamacona.

Q. You now wish to swear that Weed told you that \$20,000 would be furnished by Mr. Zamacona?—A. He didn't say so in exact terms.

Q. That \$20,000 would be furnished by Mr. Zamacona for the procuring of such evidence from Exall contradicting his former statement?—A. He didn't say so in exact terms, that \$20,000 would be forthcoming, but he said the money would be furnished by Zamacona.

Q. What money did he mean?—A. The money that was to go to Exall.

Q. Didn't you then ask him what the amount was?—A. I don't think I did, sir.

Q. If I understand you, you asked Fisher whether Mr. Weed's statement was correct, or you mentioned Mr. Weed's statement to Exall as Exall repeated it to you, and Fisher replied that it was incorrect?—A. That he thought Mr. Weed was mistaken; that he never had been authorized to make any specific offer—any specific sum.

Q. You met Mr. Weed afterwards and you had some talk with him about testimony; why didn't you ask him, or did you ask him, whether he had stated to Exall that \$20,000 was to be paid, and whether he was authorized to make such a proposition; why didn't you ask that?—A. He said it was an opportunity for Exall to make a good deal of money, and an opportunity that seldom offered; that he could make a good deal of money, and make it very easy.

Mr. FOSTER. He has not answered your question.

Mr. LINES. No; I don't think he is trying to.

The WITNESS. I have been trying to answer your question. Will you give it to me again?

Mr. LINES. I don't think that is an answer to the question.

Q. I will ask it again: You met Mr. Weed afterwards, and you had some talk with him about testimony; why didn't you ask him, or did you ask him, whether he had stated to Exall that \$20,000 was to be paid and whether he was authorized to make such a proposition—why didn't you ask that?—A. I can not tell you why I did not.

Q. You were acting on behalf of Exall and Ely; and you knew Mr. Ely to be the attorney of the La Abra Company?—A. Yes, sir.

Q. Conducting those proceedings, whatever they were?—A. I did.

Q. Do you think it would be to his interest to defeat any attempt on the part of the Mexican Government to secure a rehearing of this case?—A. I don't know that I thought particularly about it at the time. Mr. Ely is an old personal friend.

Q. What do you suppose his motive to be in employing you to get these offers from these gentlemen?

Mr. KENNEDY. The objection to that is that the witness has already stated the circumstances under which he accepted the position, which he has testified to, that he held.

Mr. LINES. He has done that; but I want to find out from him what interest he understood Mr. Ely had in the matter.

The WITNESS. I knew that he was connected, but his particular interest I never knew. I only recognized him as a very old and particular friend. He stood up with us when we were married, and I named a boy after him, and we look upon each other as a brother.

Q. He was trying to do something, wasn't he?—A. Yes, sir.

Q. Wasn't he trying to defeat the application of the Mexican Govern-

ment—to defeat the rehearing of this case?—A. I don't know. I knew he had a general interest in it.

Q. You understood that these gentlemen were acting adversely—Mr. Weed and Mr. Fisher—acting adversely to the interest of the La Abra Company?—A. Yes, sir.

Q. And that Ely desired to protect those interests?—A. Certainly.

Q. Now, I ask you if you didn't know that a definite offer from those gentlemen—an offer of some specific sum, for some specific purpose—would be much more valuable to Mr. Ely than your impressions or any testimony that you might give on the subject?—A. I don't understand your question.

Q. I will repeat the question, which was as follows: Now, I ask you if you didn't know that a definite offer from those gentlemen—an offer of some specific sum, for some specific purpose—would be much more valuable to Mr. Ely than your impressions, or any testimony that you might give on the subject?—A. I don't think I ever had any opinion with reference to Mr. Ely's connection especially with it at all.

MR. KENNEDY. I don't understand your answer.

MR. LINES. Let me get at it by a hypothetical question. Suppose I send my—

The CHAIRMAN. I do not want any hypothetical questions put on the record.

MR. LINES. I don't want to weary you, Mr. Chairman; I have no doubt you see the point I am trying to get at, and that is that the witness contented himself with his own recollection in so important a matter.

The CHAIRMAN. It is more in the nature of an argument.

MR. LINES. Very well, sir.

The WITNESS. I made my affidavit in April and this matter transpired in January and February.

The CHAIRMAN. I look upon the record as containing full and substantial statements at the time, and Mr. Ely drew it, I suppose?

The WITNESS. Yes, sir.

The CHAIRMAN. And you swore to it, and that it fully covers the case?

The WITNESS. Yes, sir.

By MR. LINES:

Q. Acting in Mr. Ely's interest, why didn't you ask these gentlemen to submit a definite proposition in writing?—A. I can not tell you, sir. I don't know why I didn't. It is too far back now to remember why I didn't do things. I might have, perhaps, remembered at the time.

Q. Do you know what became of Mr. Exall after these interviews?—A. I do not.

Q. Don't you know what the circumstances were at the time of the first interview?—A. That I do not. I know he was a clerk employed with the firm of brokers.

Q. Do you know what his salary was?—A. No; I never had any acquaintance with him before, and my acquaintance terminated with these occurrences spoken of. Never had any personal interest in Mr. Exall. Don't feel that I knew him specially.

By the CHAIRMAN:

Q. What broke off these negotiations?—A. Senator, I can't tell you that. They ended at that time. Nothing was ever said further to me on the subject.

Q. No interview with Zamacona or Lines?—A. Not that I am aware of.

Q. No proposition of any specific statement to be made by Exall, and

no proposition for any certain specific documents to be surrendered by him?—A. Not to my knowledge. No, sir.

Q. The whole thing collapsed without any further results than that you have stated in your affidavit?—A. So far as I know.

Mr. LINES. I guess we will rest on that. That is all.

The CHAIRMAN. Is there any further testimony to-day?

Mr. FOSTER. I wish to get along as fast as we can.

The CHAIRMAN. I do, too. As long as I have any time here I want to use it. Where is Mr. Sisson?

Mr. KENNEDY. I don't know where he is, but I think he is in town. I think he arrived here some time this morning.

The CHAIRMAN. Have you no documentary evidence to put in to-day?

Mr. KENNEDY. There are two other affidavits preceding that of Mr. Kittelle's, and I would like to detach those. There is an affidavit of Mr. Ely and one of Mr. Exall bearing on the same subject.

Mr. FOSTER. I have no objection to their detaching it.

Mr. KENNEDY. I have no objection to have them all go on the record, but I don't see that I have any right to ask that the two affidavits should go on.

The CHAIRMAN. The other side could put them in if they choose to do it.

Mr. KENNEDY. I have no objection to show them to the other side.

Mr. FOSTER. I don't see any reason why we should put in any post-mortem affidavits of Mr. Exall.

Mr. KENNEDY. Very well.

Mr. FOSTER. I would like to inquire of the counsel of the company if they know where Mr. Ely is to be found?

Mr. KENNEDY. We do not. We have sent both letters and telegrams to Mr. Ely within the last week or two, to New York and Girard, and we heard this morning, from a gentleman who had seen him two or three days ago, that he had started for somewhere, but he didn't know where. We expect to hear from him shortly, though.

The CHAIRMAN. This examination will not conclude without Mr. Ely's coming to testify.

Mr. KENNEDY. We do not expect it will.

The committee hereupon adjourned subject to the call of the chairman.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 14, 1889.

The committee met pursuant to adjournment. Present, Senator Morgan (chairman), Hon. John W. Foster, and Mr. Robert B. Lines, counsel for the Government of Mexico, and Mr. Crammond Kennedy, counsel for La Abra Silver Mining Company.

TESTIMONY OF ISAAC SISSON.

ISAAC SISSON, sworn and examined.

By Mr. KENNEDY:

Q. Will you state your age, your occupation, and your residence, if you please?—A. Sixty farmer residence, Lithgow, Dutchess County, N. Y.

Q. Where and in what capacity were you employed in the month of September, 1872?—A. United States consul at Mazatlan.

Q. In Mexico?—A. Mexico; yes.

Q. How long had you been there and in what capacity?—A. In 1872?

Q. Yes.—A. I think I had been there five or six years; in 1866 I went there.

Q. Well, what official position, if any, did you hold?—A. When?

Q. From the time you first went to Mazatlan to September, 1872.—A. I first was appointed a commercial agent there.

Q. What year was that in?—A. 1866, I think.

Q. And how long did you remain commercial agent?—A. I think about two years, until 1868; then I was made consul and had my exequatur.

Q. From the Central Government of Mexico?—A. From the Central Government of Mexico, yes; from President Juarez.

Q. How long did you remain in Mazatlan as consul?—A. About nine years.

Q. In what year did you return to this country?—A. I think I left Mazatlan in 1875.

Q. State whether you received instructions from the Department of State in regard to taking depositions in support of claims of citizens of the United States against the Mexican Government under the treaty of July 4, 1868.—A. I received instructions from the Department of State in regard to that.

Q. State whether—

By the CHAIRMAN:

Q. They were in writing, were they?—A. Yes, sir.

By Mr. KENNEDY:

Q. Have you them with you?—A. No, sir; they were left in the records of the consulate.

Q. State in a general way to what extent you took such depositions.—A. They were instructions in regard to the form of oath, which is—well, about the same as the general oath taken to certify to an affidavit or document of that kind. Then I was to put my affidavit to it and it must be sealed and—

By the CHAIRMAN:

Q. Your affidavit or your certificate?—A. My certificate, and I was to swear to that.

Q. Swear to the certificate?—A. The certificate; and then it was to be sealed up; a document with ribbons attached; and to use my good offices as far as consistent in helping and assisting citizens of the United States in getting their witnesses or proving up their claims. Also on the other side, of Mexico against the United States there; both ways.

By Mr. KENNEDY:

Q. Do you mean that you took depositions of Mexican citizens in support of their claims against the United States under that treaty?—A. I did, sir.

Q. Please tell us where your consulate was—that is what part of the city?—A. A place called the Olas Altas.

Q. How many rooms did you have?—A. As occupied by the consulate?

Q. In 1872, in September.—A. Occupied by the consulate, you mean, or the residence itself?

Q. No; I am talking of the consulate offices!—A. There was one room in the consulate, still I had an adjoining room to it that people used to sit and wait in sometimes, always had a small desk in there that I did business at sometimes. My general office was the first one as you entered the buildings there. Mr. Foster knows how they are built in Mexico. A large entrance-way very nearly as wide as this room; you could drive a wagon in it, and you would pass inside just the same as you pass that door there; right there where the fire-place is was the consulate office.

Q. What did you use the adjoining room for!—A. Oh, the adjoining room was a sort of waiting-room, you may say, where the people sat down and talked.

Q. Did you ever do any work there yourself!—A. Sometimes; I did some of my private writing in there. Sometimes it was too full in the office there and I used to take some people in there occasionally; used to be very busy at times there—steamer times.

Q. Now, in September, 1872, what employes did you have in the consulate office!—A. I had a clerk.

Q. What was his name!—A. Domingo Danglada.

Q. Was he a Mexican!—A. Yes, sir.

Q. Did he speak Spanish and English both!—A. Yes, sir; and French.

Q. What interpreter did you have!—A. He was the interpreter generally.

Q. Do you know where he is now!—A. In California the last I heard of him, awhile ago, San Francisco.

Q. How long ago was that!—A. About a year ago.

Q. Were you acquainted with Alonzo W. Adams in his lifetime!—A. Yes, sir; I saw him there.

Q. When did you first meet him!—A. I think it was in 1868.

Q. What was Adams doing at Mazatlan!—A. I won't be exactly sure whether that is the time or not, but I think it was. He came down there to get affidavits in regard to a claim.

Q. Do you know how the depositions that he obtained were taken! I mean where and in what manner.—A. Well, he had an office or room at the hotel.

Q. At Mazatlan!—A. At Mazatlan, and the witnesses used to go down there and their affidavits were prepared there; as a general thing in a rough form, as you may say; they would be got together; sometimes they were written out in full and other times they were not. They would be got together and written out in the consulate. Sometimes they would come up there.

Q. The witnesses!—A. The witnesses. Sometimes after they got up there, in reading over their affidavits and looking them over, they would find something that was misunderstood or something might be wrong about them and have to commence and go it all over again, like enough.

Q. What steps did you take to make sure the witnesses understood their depositions! I am talking now of the Mexican witnesses.—A. Well, because they were all interpreted to them. It was interpreted.

Q. Who did the interpretation!—A. Mr. Danglada a good deal of the time, and sometimes Mr. Peña, and other times Governor Galan—generally Peña, and Governor Galan, I think, always. At least there was always another interpreter besides my clerk. There was never an affidavit taken there unless there were two interpreters.

Q. So that the correctness of the translation of an affidavit or the reading of it did not depend solely upon your consulate interpreter!—A. No, sir; still he was my dependence.

Q. Yes, I understand. Are you acquainted with Charles B. Dahlgren?—A. Yes, sir.

Q. When did you first become acquainted with him?—A. Well, I can not tell exactly. It was a good while ago. It might have been in—well, it was along about that time—1868; I mean about 1870. Probably it might be 1872. I can not tell what year he did come down there. That was the time they were taking those affidavits. He was there anyway, but I forget what time. I saw him at Mazatlan. I can not tell what year he did come in.

Q. What official position did he hold?—A. Official position?

Q. Yes.—A. He said that he was appointed consul at San Dimas.

Q. What were the limits of your consulate?—A. Well, it ran clear over to Durango. I used to do business there and all around, up in San Dimas where he was and all down as far as—down the coast quite a ways.

Q. What business did Dahlgren do as consul at San Dimas?—A. I do not know of any.

Q. Would you have known of any consular business officially that was done by him at San Dimas if he had done any?—A. I think I should, sir.

Q. Do you know whether he ever received his exequatur from the Mexican Government?—A. I do not.

Q. Do you know whether he ever had any consulate seal?—A. I think not.

Q. Do you know whether he ever had any consulate stationery?—A. I have understood—

By the CHAIRMAN:

Q. Don't say what you understood. I do not see the relevancy of this between the two consuls there. Do you know that he was consul there?—A. No, sir.

Q. Very well, that gives it.

Mr. KENNEDY. Well, if it please the chairman, in some leading questions that were put in the redirect to Dahlgren while we were not here—

The CHAIRMAN. No, no; because you were here, or had full opportunity to read every word of the testimony.

Mr. KENNEDY. Oh, they were read to me afterwards. I am only identifying a particular part of that long testimony.

Mr. FOSTER. It was a very brief re-examination.

The CHAIRMAN. Counsel on both sides have had a full and perfect opportunity of hearing and of reading every word that any witness has said, and if at any moment of time they were not present, the committee do not feel authorized to suspend the business merely to suit the convenience of counsel. They have had full opportunity to go over this record, as I say.

Mr. KENNEDY. Well, Mr. Chairman, I admit what you say, and only want to identify a particular portion of a very long examination. Now, in the portion of Dahlgren's testimony to which I have referred he said that he knew of no reason why Adams's witnesses should not have been examined before him, Dahlgren, as consul, and the object of my questions to Mr. Sisson is to show that at that time Mr. Dahlgren was not actually engaged as consul; that he had not received his exequatur from the Mexican Government, so that he was without any official recognition of his consular office from the Mexican authorities;

that he had no consulate seal, and that he had informed this witness that he did not even have consulate stationery.

The CHAIRMAN. Did you ask him whether he had informed—

Mr. KENNEDY. The witness, I understand, said Dahlgren told him that he did not have any consulate stationery.

The CHAIRMAN. No. Did you ask Dahlgren the question whether he ever told this witness, Sisson, that he never had a seal?

Mr. KENNEDY. No, sir.

The CHAIRMAN. Then you can not impeach him that way?

Mr. FOSTER. Besides it is not the way to prove these facts; they are a matter of official record.

The CHAIRMAN. It is totally immaterial.

Mr. FOSTER. They can be established in the Department of State.

By the CHAIRMAN:

Q. Were you at Dahlgren's place at San Dimas?—A. No, sir; never.

Q. Never in your life?—A. No, sir.

Q. Well, how could you have any personal knowledge of what he did do there?—A. Nothing except what he told me.

The CHAIRMAN. Well, of course, what he told this man would be competent if it was a material matter and you had laid the predicate by asking Dahlgren if he did not tell him so.

Mr. KENNEDY. If it please you, my purpose is not to impeach Dahlgren, but to prove an independent fact—to show that there was a good reason for Adams not taking his witnesses before Dahlgren.

The CHAIRMAN. Well, you can not show that by a man who never was there and never saw the consulate seal and stationery. There are better ways of getting it than that.

Mr. KENNEDY. Well, I surely can show what Dahlgren said to this witness?

The CHAIRMAN. No; because you did not ask Dahlgren that question with a view to impeach. If you had asked him that question he might have answered that he did not have the exequator or seal, or did not have any stationery, but you did not ask it of him. Just proceed, please, without reference to that.

By Mr. KENNEDY:

Q. Have you examined the original deposition of Dahlgren that is now on file in the Department of State?—A. Yes, sir.

Q. When did you first see that document?—A. When did I first see it?

Q. Yes; I mean the 18 pages of which it is now composed?—A. It was made out in my consulate.

Q. Now, will you state the circumstances attending the taking of that deposition; I mean the signing of it by Dahlgren, his oath to its truth so far as you are concerned?—A. Well, Mr. Dahlgren and Mr. Adams, Mr. Pena, and I think Governor Galan, came up to the consulate for the purpose of making out an affidavit.

By the CHAIRMAN:

Q. Now, do you mean an affidavit, Mr. Sisson, or a deposition?—A. I do not mean an affidavit, I mean a deposition.

Q. In this La Abra case?—A. In this La Abra case. And they sat down in the office there and went to writing.

Q. You say they went to writing. Who went to writing?—A. Mr. Pena did the writing, the interpreter. Adams and Dahlgren were discussing the matter.

By Mr. KENNEDY:

Q. What time of day did these gentlemen whom you have named come to the consulate?—A. Oh, along in the morning some time. I can not tell exactly what hour they did come.

Q. Well, now, proceed.—A. Well, Mr. Pena went to draw up the paper, and they talked it over. I was out and in the room while they were at it, and finally it was finished and all written out. I went in there then and swore Mr. Dahlgren, and it was read over to him.

Q. You mean this identical deposition?—A. I mean this identical deposition that is in the State Department to-day, or was yesterday.

By the CHAIRMAN:

Q. You examined it through, did you?—A. I did. I swore him—the usual form of oath that was attached there to it—and after it was all through he signed it right there. Mr. Pena witnessed it right there. Then I put my oath to it.

By Mr. KENNEDY:

Q. That is, the certificate?—A. I mean my certificate. Then I signed it and put the seal of office to that. Then I turned it over to Mr. Danglado, who put the ribbons through it in the form you see. You see how it is done there, put through and through, brought back, sealing-waxed about the top of it, and he held it up while I put the stamp on that sealing wax. Mr. Dahlgren, as soon as he signed it, went off.

Q. Did Mr. Dahlgren say anything about being in a hurry?—A. Yes, sir.

Q. Did Mr. Dahlgren say anything in regard to a desire on his part to go away before it was read to him?—A. Well, I can not say exactly the words he said. He appeared to be in a hurry.

Q. Now, in order that I make no mistake in stating what Mr. Dahlgren said upon that point I would like to read to the witness an extract from Mr. Dahlgren's testimony.

By the CHAIRMAN:

Q. About how many?—A. Oh, quite a number; there may have been a dozen or two dozen sheets, a large number of sheets.

Mr. FOSTER. What is your object in reading this, Mr. Kennedy, to the witness?

Mr. KENNEDY. It is to ask the witness what he has to say in regard to the statements I am about to read to him. I am sure if I undertook to say what Dahlgren said there would naturally be some difference of opinion between you and me.

Mr. FOSTER. If the chairman thinks it is proper, of course I have no objection.

The CHAIRMAN. I think that is a proper way of examination.

Mr. FOSTER. It is the best way of getting at what Dahlgren said.

Mr. KENNEDY. And the rule is, where there is a direct issue between two witnesses, the only proper way is to read the exact words of one witness to the other.

He said, "I have finished." I then said, "General Adams, allow me to read over those papers." He said, "They are your answers as written down by my secretary, and it is long; it is not necessary; have you no confidence in me?" I said—

That is, Dahlgren, who is talking.

"I wish to see those papers, and unless I do they can not go out of this room; I must see them." He then handed me the sheets, and I read them over. I then said, "General Adams, those are not the answers as I gave them to you, sir, and I will not allow that to pass for evidence." "Well," he said, "Scratch it out, or erase it, as

you see fit." That was done, and then I said, "Now those answers are satisfactory to me and I will sign them," and I did sign them. He then said, "That is not fit to hand in as testimony, all scarred up in that manner." I said, "You had no business to write those answers in that way." And I said, "Well, I am on the way to San Dimas, and I haven't time to stay longer." I then called to Mr. Sisson, who was consul at Mazatlan, while I was United States consul at Durango—

By Mr FOSTER:

Q. At that time?—A. At that time; yes, sir. I said to Sisson, "I will sign a blank sheet of paper and put it in your possession as consul, as between two consuls; you are to transcribe these notes and retain the original and hand that signature with the transcribed sheets ahead of it to General Adams as my testimony." Sisson said he would do it. I then jumped on my mule and rode away, 170 miles back to San Dimas.

Q. Now, Mr. Sisson, what have you to say to that statement of Dahlgren so far as it concerns you?—A. I can say that he signed no blank sheet at all there to my knowledge. What he signed was this deposition of his. What he and Adams did and talked about—they talked a great deal—I can not tell, but this was the result of their work, was the making his disposition there.

Q. Now I read again to you.

By the CHAIRMAN:

Q. There is one part of that you have not answered. He states there that he makes some declarations to you. What do you say about this?

By Mr. KENNEDY:

Q. I will read that again to him:

"I will sign a blank sheet of paper and put it in your possession as consul, as between two consuls; you are to transcribe these notes and retain the original and hand that signature with the transcribed sheets ahead of it to General Adams as my testimony." Sisson said he would do it.

Now, you have just said that Dahlgren never signed any blank sheet of paper in your consulate to your knowledge, and the chairman invites your attention to what Dahlgren says he said to you about transcribing the notes and your promise to do that. Is that true?—A. No, sir; I don't recollect any such thing.

By the CHAIRMAN:

Q. No, but do you deny it?—A. I do deny it; yes, sir.

Q. You say it is not true?—A. I do.

Q. In what respect is it untrue?—A. I don't recollect him telling me any such thing, or doing any such thing, or agreeing to do any such thing, for I did not do business in any such way.

Q. Do you say it is untrue in every respect and in every particular, or only in part?—A. Read it over again.

By Mr. KENNEDY:

Q. (Reading):

"I will sign a blank sheet of paper and put it in your possession as consul, as between two consuls; you are to transcribe these notes and retain the original and hand that signature with the transcribed sheets ahead of it to General Adams as my testimony." Sisson said he would do it.

Now, the chairman asks whether you say that that is untrue in every particular?—A. Well, I can not say in every particular. I can not swear positively what he might have requested; but I never agreed to do it, that I will say, in that way, for I don't do business in that way at all. No affidavit was ever taken there unless it was written out in full as a deposition.

By the CHAIRMAN:

Q. Is that your reason for saying that Dahlgren has made a false statement, that you never do business in that way, or do you state it as your recollection in connection with this particular paper?—A. I state that as a recollection.

Q. In connection with this particular paper?—A. Yes.

Q. That he did not sign a blank sheet at all, but signed the deposition after it had been filled out and only after it had been filled out?—A. That is what I say.

By Mr. KENNEDY:

Q. Now, let me read you this. This question is put to Dahlgren:

Q. Did you write anything in it except the signature at the bottom?—A. Nothing.

By the CHAIRMAN:

Q. Wait one moment. I wish to ask him a question. This document that you saw in the State Department was drawn up, you say, in Peña's handwriting?—A. Yes.

Q. Was that read over to Dahlgren in your presence?—A. Yes.

Q. Who read it to him?—A. Peña, I think, and I think I read some of it myself.

Q. How did you both happen to be reading it?—A. You will see there are corrections made after we got through, at the bottom. After the affidavit—

Mr. KENNEDY. Deposition, call it.

The WITNESS. After the deposition, I mean, was read, there were some clerical mistakes, and they were all recorded at the bottom after it was through. That I recollect positively—my reading over and calling his attention to that myself; had the deposition in my hand.

Q. Did you call his attention to the corrections before they were made or after they were made?—A. After they were made.

Q. Did he make the corrections or did Peña make them?—A. They both made them together. They were reading over at the same time.

Q. Then, if I understand you, you state that after the deposition had been written out he and Peña had a conversation with each other about certain inaccuracies of statement?—A. Yes, sir.

Q. And thereupon Peña wrote at the bottom of the deposition a statement of what those corrections were?—A. He wrote; put down the pages; every page where those corrections could be found on, whatever they were.

Q. And described the corrections in a note that he appended to the body of the deposition?—A. The body of the deposition.

Q. And after he finished that?—A. Then I took hold of it and called Dahlgren's attention to that.

Q. Why did you do that?—A. To make it correct.

Q. Well, you say he and Peña were correcting it together?—A. Of course they were.

Q. What had you to do with correcting a thing that Peña and the witness were correcting?—A. I wanted to see that it was correct.

Mr. KENNEDY. That was his official business, Mr. Chairman.

The CHAIRMAN. Not quite. I want to see if the witness understood his corrections as well as the body of the statement.

Mr. FOSTER. If it was the witness is as competent to state it as you.

Mr. KENNEDY. Well, Mr. Chairman, I was speaking in regard to a question which you asked.

By the CHAIRMAN :

Q. Now, what necessity was there for your calling the attention of Dahlgren to corrections that he and Peña had already made and that Peña had written into a note at the bottom of his deposition ; why did you do that ?—A. Why, because it was perfectly natural for me to do it.

Q. Was that the only reason you had ?—A. I stood there when this thing was corrected ; and now says I, " Mr. Dahlgren, are these all correct ? "

Q. Were the corrections correct ?—A. Were the corrections correct ?

Q. Now, that is all right. He said they were ?—A. He said they were.

Q. And then he signed them and Mr. Peña signed them ; now how much of the body of that deposition, if any of it, did you read over to Dahlgren ; that part preceding this note ?—A. Well, sir, I can not swear positively that I read any of it.

Q. How much did you hear read to Dahlgren ?—A. The whole of it.

Q. Was it read consecutively to him ?—A. It was read right along, commencing at the beginning.

Q. Who read ?—A. Mr. Peña, at my request.

Q. Did Dahlgren read it also ?—A. I don't think so ; he might have read over part of it. I can not tell. I can not tell whether he did or not. He was there and they were looking over it together. It was finished ; then my attention was called that it was finished.

Q. About how much time was occupied by Peña in reading this deposition to Dahlgren ?—A. O, quite a while.

Q. Well, just say what it was ; how much ?—A. I can not tell exactly. I guess he was fully half an hour at it, if not more.

Q. Was Adama present during that time ?—A. Yes, sir.

Q. Was he engaged in reading any part of this deposition to Dahlgren ?—A. I do not think he was ; he was listening.

Q. Was that the only draught of the deposition that was made out by Peña ?—A. The only one that ever I saw.

Q. Were there any notes taken prior to that time by Peña or any other person while Dahlgren was being examined as a witness ?—A. Not in my presence.

Q. None but just this deposition ?—A. What do you mean ?

Q. Notes taken on sheets of paper or pieces of paper separate from this deposition containing the substance of Dahlgren's statement made before that time ?—A. Yes ; I think the rough statement was made on other paper.

Q. Other paper ?—A. Other paper.

Q. Other papers. Now, who made that rough statement ?—A. Mr. Dahlgren, I suppose.

Q. You do not know ?—A. I do not know.

Q. How does it happen it was his handwriting ; how does it happen that you do not know, if this examination was conducted before you as consul and presiding magistrate on that occasion ?—A. It was. I do not understand the question exactly.

Q. How does it happen that you do not know what those rough notes contained if this examination was conducted before you as consul or presiding magistrate on that occasion ?—A. The examination was not conducted before me. I had no more—that was not my business. My business was there after they got through and the deposition was ready ; then it was my business to look over it but not to help them to fix it up.

Q. That is your idea of your business ?—A. That is as I understood it

Q. Yes, as you understood it. Now, then, was Dahlgren sworn before he was examined ?—A. Sworn before the affidavit was read to him ?

Q. Was he sworn before he was examined before Peña and Adams there ?—A. Yes, sir.

Q. Before these rough notes were made was he sworn ?—A. No, sir.

Q. Then he was not sworn before he was examined ; he was sworn after he was examined and not before ?—A. Before he was examined by them.

Q. What do you mean by "examined by them ;" did they examine him, or did you ?—A. They got together and got this by themselves. They got together and made up this deposition.

Q. Which one are you speaking of now ?—A. The rough one. Then it was taken from that, and then when they got through, and got it all right to satisfy themselves, Mr. Peña copied it as it should be copied to make a decent, respectable deposition of it.

Q. How do you know he copied it ?—A. I saw him.

Q. How do you know he copied it correctly ?—A. I do not know as he did.

Q. Did you ever read these rough notes over ?—A. No, sir.

Q. You do not know, then, whether he correctly copied it or not ?—A. No, sir.

Q. Well, your interference in the matter, or your official action in the matter, rather, began after the deposition had been put in shape, copied out by Peña, read by Peña to Dahlgren, and Dahlgren subscribed it ?—A. Yes.

Q. That was the first knowledge that you had of the real contents of that deposition ?—A. Yes.

Q. Now, did you have any knowledge of what the real contents were except from hearing read so much as you did hear read of this copy that was made out by Peña for Dahlgren's signature ?—A. I heard that.

Q. That was all the knowledge you had of what the man had sworn to ?—A. That was what my knowledge was, from hearing that deposition, the one that is filed in the Department.

Q. That is the only knowledge you had of his examination on that occasion ?—A. Yes.

Q. Was anybody there to cross-examine him in any way ?—A. No.

Q. Mexico had no representative there ?—A. No, sir.

Q. Who was this general you spoke of, or governor ?—A. Governor Galan ?

Q. Yes.—A. He was a lawyer.

Q. Who ?—A. A Mexican educated in the United States, but a lawyer and an editor.

Q. Well, was he representing anybody on that occasion ?—A. No.

Q. He was not ?—A. No.

Q. Why do you call him Governor Galan ; was he governor of Mazatlan ?—A. He was governor of Lower California at one time.

Q. At that time was he governor of anything ?—A. No ; not governor of anything.

Q. But he had been governor ?—A. He had been governor.

Q. He had no connection with this business except as a mere bystander ?—A. I do not know as he had. I do not know whether Adams or Dahlgren—he used to do business for them—I do not know whether he had anything to do with them or not, but he was there and he was a lawyer and could speak English.

Q. What I want to get at is whether the Government of Mexico was represented at all on that occasion ?—A. No, sir ; I do not think it was.

Q. So this deposition was made up by Mr. Adams, Mr. Peña, and Mr. Dahlgren?—A. Yes, sir.

Q. And read in your hearing, and that is all you know?—A. That is all I know about it.

Q. Then this witness was never examined and sworn before you as a consul, he was sworn after his examination had been completed, made up, and written out by Peña, and read over to him and not before?—A. No; he was not sworn before, the affidavit—as I say before, this affidavit here in the Department, when he commenced to read that, then he was sworn.

Q. So you, in certifying to that deposition, did not certify to any examination that was made before you, but you certified to an agreed statement made up between Dahlgren, Adams, and Peña?—A. I certified to Dahlgren's statement, not Adams's and Peña's statement; it was Dahlgren's.

Q. I said an agreed statement made up between them?—A. No, no, no. Now hold on. It was no agreed statement at all; it was Dahlgren's statement.

Q. Well, how do you know it was Dahlgren's statement unless you had heard Dahlgren make the statement, and knew that Peña had correctly copied it?—A. Well, I tell you, he swore to it there.

Q. Oh, that is very clear; he made an affidavit to it?—A. An affidavit to it, but I can not tell whether the affidavit was true or not, or whether what he stated was true.

Q. And you did not at that time know anything of what Dahlgren had stated to Adams and Peña before that oath was administered by you except as you heard it read over—that paper?—A. No, I do not know anything of what they had done before. As I stated before, it was not my business to get up depositions, but it was my business to swear people to tell the truth after they did get them up; that was all.

Q. Well, we happen to differ about your duties.—A. Well, that is all right.

Q. You think you had no duty to examine the witness and to state any facts that he might trip in the course of his examination in order to impeach his testimony?—A. I had no direction from the Department to do any such thing.

Q. You think you had no duty there at all as an examining counsel to see that the witness, in giving his testimony, did justice to the Government of Mexico?—A. No. It was my duty to see that the thing was done as correct as I could, I suppose, but I was no attorney on the part of Mexico.

Q. No, you were not an attorney, and that is the reason you were directed to take down the examination; that is, you were an impartial man?—A. That is it exactly.

Q. But instead of taking down an examination of a witness whom you had already sworn to tell the truth, the whole truth, and nothing but the truth, you certified to an examination that other men signed and brought to you for a certificate?—A. No, I did not do any such thing.

Q. Well, how was it if it was not that way?—A. I certify to what he positively swears to.

Q. Now, you read that.—A. I have read it.

A. Now, is that true or is it not?—A. That is what I certify to and he swore to it, whether the statement that is in that paper is true or whether it is not true. I certainly had no right to examine him, as a lawyer, in regard to what he knew about the affairs between Mexico and the United States or that La Abra claim.

Q. Certainly, not as a lawyer.—A. My duty as consul there—because I had no such instructions to do it.

Q. Well, what your instructions were, I don't know. I think you will find——

A. They are easily found in the Department.

Q. Your instructions are to take examinations of witnesses under oath just as a notary public would, and not merely swear a man to an *ex parte* affidavit without your knowing anything about the contents of it. Suppose——

A. If a man comes——

Q. No; wait a moment. Suppose on that occasion you had examined Mr. Dahlgren yourself, as consul, as a judge, and you had become satisfied he was swearing to a falsehood, would you have certified to that fact?—A. No.

Q. You would not?—A. Not if I thought he was swearing false I would not.

Q. Would not certify to the fact that you believed he was swearing falsely?—A. Yes; to the fact that I believed he was swearing falsely; but I thought you meant if I would certify that it was a truthful one, but if I thought the affidavit was not true I certainly should not have certified it.

Q. Well, what opportunities did you have for determining whether he was swearing to the truth or not?—A. No opportunity of determining only what he said.

Q. Well, but you had no opportunity of telling what he said except what was written down in that paper?—A. Yes.

Q. So that in fact he was not examined before you?—A. Not as a witness; no.

The CHAIRMAN. That is all. Now you can go on, Mr. Kennedy.

By Mr. KENNEDY:

Q. You say that every word of the deposition that is now in the State Department was read to the witness in your presence before he signed it?—A. That is what I intend to say.

Q. Now, when depositions were taken before you on behalf of citizens of Mexico against the United States, was there any counsel or other person present representing the United States?

The CHAIRMAN. O, that does not amount to anything, because——

Mr. KENNEDY. Well, you might let him answer it. It was simply called out by your examination.

The CHAIRMAN. It only shows that all these examinations were merely *ex parte*.

Mr. KENNEDY. That is all, sir. Will the stenographer read the question?

The stenographer read the question as follows:

Q. Now, when depositions were taken before you on behalf of citizens of Mexico against the United States, was there any counsel or other person present representing the United States?

A. No, sir.

By Mr. KENNEDY:

Q. Now, I want to read to you from page 649 of the testimony. This is a question put to Mr. Dahlgren relating to the deposition:

Q. Did you write anything in it except the signature at the bottom?—A. Nothing. Q. And that signature was made before the body of the deposition was written out?—A. Yes, sir.

Now, I want to ask you what you have to say to that; whether that is true or not?—A. I did not sign it until the body was written out.

Q. You mean to say, if I understand you, that the whole of that deposition, just as it now appears in the Department of State, was written out before Dahlgren affixed his signature to it?—A. That is what I say, and can prove it.

Q. Now, I want to read you from page 676. This is an answer of Mr. Dahlgren:

A. When I signed the blank sheet of paper Sisson was present, and wrote, or it was written:

"Sworn to and subscribed before me this 18th day of September, A. D. 1872."
Sisson was present. I handed him that blank sheet of paper.

Is that true?—A. Read it over again.

[The question was read again.]

A. No.

Q. Now, I want to read you from page 677. This question was put to Mr. Dahlgren:

Q. What statement was it that you had made that you swore on that occasion was a true statement?—A. I told you that I had a long and tedious interview with Adams, and that I gave a deposition, which was corrected, numerous corrections, whole lines out out, and that he said, "This is not fit to hand in as testimony."

By Mr. KENNEDY:

Q. Who said that?—A. Adams. After I had dashed my pen through it he said, "This is not fit to hand in as testimony." I said, "No, of course it is not; it was not fit before I drew my pen through it." I said, "I have got to go; I can not stay any longer; I have got an imperative letter that calls me away." He said, "What can we do?" I said, "I don't know." Sisson had come in with a letter-book or letter-press, or what not, and I said, "I will sign a blank sheet of paper and deliver it to Consul Sisson. He is to have transcribed the testimony which I have given, which is all I can do."

By the CHAIRMAN:

Q. Now, captain, nothing had been transcribed at the time you took that oath?—

A. No, sir; not one word.

Q. Of course, then, you swore to the original statement drawn up by Peña, but as amended by you?—A. As amended by me.

The CHAIRMAN. Very good. That settles this.

Now, I ask you whether it is true—

Sisson had come in with a letter-book or letter-press, or what not.

And that Dahlgren said to Sisson—that is you:

I will sign a blank sheet of paper and deliver it to Consul Sisson. He is to have transcribed the testimony which I have given, which is all I can do.

What do you say about that?—A. No, sir; he signed no blank sheet there. What does he say he swore to there before?

Q. He says, in answer to a question of the chairman, which I will read again:

Q. Of course, then, you swore to the original statement drawn up by Peña, but as amended by you?—A. As amended by me.

And Dahlgren said, in regard to you:

He is to have transcribed the testimony which I have given, which is all I can do.

Now, what have you to say to that?—A. No, sir; he didn't sign any blank sheets; never signed until it was all written out—the whole deposition.

Q. Now, I want to ask you whether you were acquainted with Alfred A. Green?—A. Yes, sir.

Q. Do you know whether Adams and Green had any business together?—A. Yes, sir.

Q. Well, what was it?—A. Well, Green was helping Adams for awhile; went around through the country, I think, as a sort of interpreter.

Mr. FOSTER. Mr. Chairman, ask the witness to confine himself to what he knows of his own knowledge.

By the CHAIRMAN:

Q. Speak of your own knowledge.—A. I am speaking of my own knowledge now, what I do know. I know I have seen them start out together.

By Mr. KENNEDY:

Q. Now, do you know whether Adams and Green had any difference or quarrel in regard to this business?—A. Yes.

Q. State what it was.—A. Well, they had a little disagreement in their accounts about paying. Green thought Adams was not going to pay him enough and came up and made complaint to me about it. I went down there, saw General Adams, and told him it did not look very well for two Americans to be quarreling here in a foreign country, and they settled it up right there and then. Adams paid him something; I don't know how much; there was feeling between them a little.

Q. Well, do you know whether that ill feeling between Green and Adams continued?—A. Oh, I don't think Green had any good feeling towards Adams afterwards. He expressed himself two or three times that he did not think he got enough.

Q. Will you state if you know whether Green had any difficulty with the Mexican Government or authorities?—A. Yes, sir; he had some trouble with them.

Q. Well, what was it?—A. Well, when I first went to Mexico, just as soon as I got there, about—it was not more than three or four weeks—before I received a note from Mr. Alfred Green that he was in prison at San Dimas, up where these mines are; something in regard to some transactions up there in relation to mines that Dahlgren was afterwards superintendent of. He was up there in prison, and I wrote in regard to it and he got out and came down.

Q. Do you know whether that Alfred A. Green is the same Green that made a claim under the treaty of July 4, 1868, against the Mexican Government?—A. Well, he made his claim against the Government; I don't know when; so he told me.

The CHAIRMAN. That is a mere means of identifying the man, I suppose, and don't amount to much.

Mr. FOSTER. I don't see the relevancy of this, but if you are still willing to listen to it, I am patient.

Mr. KENNEDY. I am willing to state the relevancy of it if the chairman desires it.

The CHAIRMAN. Oh, no; go ahead.

By Mr. KENNEDY:

Q. From your observation and experience as consul, what would you say that the Mexican feeling was at that time—I mean from 1868 to 1872—in regard to ownership of Mexican mines by citizens of the United States?—A. Oh, well, they had some feeling against the Americans.

Q. What do you know of the state of the law—I mean as to the en-

enforcement of local laws for the protection of persons and property in the mountainous mining districts in that country?

The CHAIRMAN. One moment; state what you know now of your own knowledge.—A. Well, I will state that there was very little enforcement of the laws up in that part of the country. I think it was the worst place there was in all Mexico.

By Mr. KENNEDY:

Q. Do you know about American citizens or American companies being driven out from their mines?—A. Yes, sir.

By the CHAIRMAN:

Q. Are you speaking of your own knowledge?—A. Yes.

By Mr. KENNEDY:

Q. Do you mean that the facts came to your notice as consul?—A. Yes; came to my office and saw them come down, and talked with them. That is what I am talking about. When a man comes down and appears at the consulate shot and wounded I know it.

Q. Will you state whether it is a fact that many companies were driven out of the San Dimas mining district?

By the CHAIRMAN:

Q. State what companies; not "many." State what companies, if you know. If you know of any, of course, you can state what they were.—A. The "Rosario" and "Carmen," as it was called. They were driven out there. A gentleman by the name—

By Mr. FOSTER:

Q. How did you ascertain that?

The CHAIRMAN. He said it is of his own knowledge, and on the cross-examination you can develop that.

The WITNESS. Mr. Hapgood had some trouble up there.

By Mr. KENNEDY:

Q. What company was he connected with?—A. I think his mine was called the "Buena Vista," if I am not mistaken. I will not be positive in regard to that.

Q. Well, do you know of any cases nearer to your own consulate in which either an American citizen or an American company—A. Oh, yes; they were not driven out, but they were *prestamoed* pretty stout.

Q. What do you mean by *prestamoed*?—A. A forced loan, made to pay up. The mines were marauded upon and they were forced to pay quite a lot.

By the CHAIRMAN:

Q. By revolutionists?—A. Yes; I believe so. I think after it was known they did not pay. They tried it at Rosario, but as General Corona was part owner in that mine they got out of that; did not have to pay anything.

By Mr. KENNEDY:

Q. Did Mr. Dahlgren ever say anything to you in regard to the manner in which he or his company kept on good terms with the Mexican authorities.

Mr. FOSTER. What is that?

(The stenographer read the question.)

Mr. FOSTER. I object to that.

The CHAIRMAN. Is there anything of the Dahlgren deposition that wish to call his attention to.

Mr. KENNEDY. It is in Dahlgren's deposition, if you please, Mr. Chairman. Of course he denies he said it, but it is, all the same, in his deposition. He said that he had to make it to the interest of the Mexican authorities to let him alone. Now, I want to ask the witness, since Dahlgren has denied some parts of that deposition—I want to ask the witness whether he had ever had any conversation with Dahlgren in regard to the methods by which the Durango Company kept on good terms with the Mexican authorities.

The CHAIRMAN. Well, you did not call Mr. Dahlgren's attention to any conversation he had with the witness, did you?

Mr. KENNEDY. No.

The CHAIRMAN. Well, that is not competent.

Mr. KENNEDY. We did not know it.

The CHAIRMAN. I can not help that.

Mr. KENNEDY. But if we are seeking for truth, and there was a conversation between these two men, it seems to me, as it touches an important point in this controversy and corroborates the deposition, we ought to be permitted to get the witness's answer.

The CHAIRMAN. You can not get the truth in a legal proceeding otherwise than through the rules of evidence. We do not know whether Dahlgren's statement was true or this witness's statement was true after it was made, but you had the right to impeach Dahlgren if you had laid the predicate by asking him if he said to this witness thus and so in regard to this particular transaction. Not having done so, I do not think it is proper.

Mr. KENNEDY. Well, in a word, Dahlgren says, in what purports to be his deposition, that he did need to make it to the interest of the local authorities not to trouble him. Now, he comes here and says that that statement in his original deposition is false; that is, that he never made the statement which appears in that original deposition.

Mr. FOSTER. Never made it to Adams at that time.

Mr. KENNEDY. That is right; never made it in the deposition. Now, that creates a very different state of affairs from what would exist if Dahlgren had simply been examined as a witness before this committee in the first instance. Here is a disputed deposition, and I want to show that when Dahlgren said in his testimony here that that statement in his deposition had never been made by him—I want to show by this witness that such a statement had been made by Dahlgren.

The CHAIRMAN. To whom?

Mr. KENNEDY. To this witness, and it is in support of what purports to be a genuine deposition.

Mr. FOSTER. You propounded no such question to Dahlgren.

The CHAIRMAN. No, no; the only object of the testimony possible would be to impeach Dahlgren, and the predicate has not been laid.

Mr. KENNEDY. It is to substantiate his deposition, Mr. Chairman, if you call that impeaching Dahlgren.

The CHAIRMAN. Well, impeaching his testimony that he gave on this examination here.

Mr. KENNEDY. True; but corroborative of the deposition which seems to have been given, and which this witness swears Dahlgren did give at Mazatlan. That is all. I understand the question was ruled out.

The CHAIRMAN. Yes, on the ground that Dahlgren's attention was not called to any conversation he had with Mr. Sisson on that subject.

By Mr. FOSTER :

Q. When did you arrive in Mazatlan for the first time?—A. I think it was in January or February, 1866. I think that was the year.

Q. How long did you remain continuously at Mazatlan before leaving after your first arrival?—A. Oh, I was there about two years. Then I got a leave of absence, I think of sixty days. I think I was gone and went back there —

Q. Wait a moment—you left there—fix the date of your first leaving as accurately as you can.—A. I can not fix it very exact.

Q. Can you fix the year?—A. I think it was in June, though I should say it was —

Q. Of what year?—A. In June, 1868 or 1869.

Q. You think it was not before June?—A. I don't think it was before June.

Q. How long were you absent at that time? You left the Republic, did you?—A. Left Mazatlan.

Q. You left the Republic and came to the United States?—A. Yes.

Q. When did you return?—A. Well, I say in about sixty days.

Q. You had a sixty days' leave, did you?—A. I had a thirty days' leave and then thirty days additional to that.

Q. And you had traveling time allowed in addition, did you not?—A. Well, there was nothing said about it.

Q. Is it not the practice of the Department to allow traveling time on leave of absence to return to the United States?—A. I believe it is, but all I did was first to get a little leave, and then when I got home I took thirty more.

Q. About what time did you return to Mazatlan?—A. I returned, I think it was, in the winter of 1868.

Q. The winter of 1868-'69?—A. 1868-'69; I should think so. No, I think it was in 1868—about New Year's. I should judge, when I got there.

Q. That is, New Year's, 1869?—A. Yes; or it might be 1868-'69. I can not recollect exactly what year it was.

Q. Well, you fixed your departure on that leave on or about June, 1868; then you were absent two months, or more?—A. Yes; I think that was the time.

Q. Then it must have been—if you returned in the winter—it must have been in the winter of 1868-'69, must it not?—A. I think so. If it was in 1868 when I left, it was about winter when I got back there.

Q. Then how long did you remain at Mazatlan after returning at that time, before leaving again?—A. 1875, I think it was. What year was it you went to Mexico?

Q. Well, now you have given the time, 1868-'69 when you returned.—A. Now, then, it was about 1875, I think.

Q. That you left?—A. Yes, next time.

Q. Then if I understand, you remained in Mazatlan from the winter of 1868-'69 until the year 1875 continuously?—A. Yes.

Q. Without leaving the country?—A. Yes.

Q. Did you return to Mazatlan again after leaving in 1875?—A. Yes.

Q. Well, how long did you remain from the Republic of Mexico when you left in 1875?—A. Oh, I guess about sixty days.

Q. Did you have leave of absence from the Department in 1875?—A. No, sir.

Q. Were you acting as consul at that time?—A. I was when I left.

Q. Can you fix the time approximately of your arrival at Mazatlan on your return?—A. I don't know; I should think it was in December.

A. December, 1875?—A. Yes.

Q. How long did you remain in that country then?—A. Not a great while.

Q. Well, months or years?—A. Two months, probably.

Q. Two months?—A. Something like that; as near as I can think about it.

Q. And then you left the Republic?—A. Yes.

Q. And have not returned to it since?—A. No, sir.

Q. When do you say you first met General Adams?—A. I don't know, as I said. I can not tell what year I did meet him in first there.

Q. My notes—

Mr. KENNEDY. The witness said between 1868 and 1870.

Mr. FOSTER. My notes say, I think, in 1868.

Mr. KENNEDY. Yes; he said after that he was not sure, but thought it was somewhere between 1868 and 1870.

The WITNESS. You see you must recollect this is twenty years ago, and I have not thought these things over.

By Mr. FOSTER :

Q. Your memory is somewhat defective, then?—A. No, it is not defective, but I can not recollect everything that was transacted.

Q. Well, can not you give within one or two years of Adams's first visit to Mazatlan?

Mr. KENNEDY. Mr. Chairman, the question is not of Adams's first visit to Mazatlan, but the question was when this witness first became acquainted with Adams.

By Mr. FOSTER :

Q. Well, I will lay the foundation for that by asking where you first met Mr. Adams?—A. In Mazatlan.

By the CHAIRMAN :

Q. When was that?—A. Well, I should say it was some time in the year 1868.

Q. About what time in the year?—A. Well, I can not tell.

Q. Were you then consul?—A. Yes.

By Mr. FOSTER :

Q. How many visits did General Adams make to Mazatlan while you were consul?—A. He made two I, think.

Q. When was the next visit made?—A. Well, I was thinking whether that was the first or the last.

Q. That is, the one in 1868?—A. Yes. It strikes me that that was the last. He was there a little before, whether it was in the same year or not that I am thinking of I can not tell. It was about six months between his visits, I think, as near as I can recollect.

Q. Then, if you think this was the last visit, when do you fix the first visit?—A. Well, I say about six months before.

Q. That is six months before this time. Was it in the year 1868 or 1867?—A. It might have been 1867. I should not wonder if it was—his first visit.

Q. Then you think his first visit was made in 1867?—A. I rather think it was.

Q. And the next visit about six months after that time; in 1868?—A. In 1868.

Q. Then those were the only two visits that he made to Mazatlan?—A. Yes; to my recollection or my knowledge.

Q. These depositions, then, of which you have been speaking, were

taken on the first or second visit, or when?—A. I think this of Dahlgren's was on the second visit.

Q. When did you first meet Captain Dahlgren and where?—A. The first time I ever saw Captain Dahlgren was in Mazatlan.

Q. At what time?—A. Well, I should say in the year 1867. I am not positive about it. I think it was.

Q. It may have been 1868?—A. Well, it might have crowded into 1868, but if it was it was in the fore part of 1868, but I think it was 1867.

Q. You are quite sure about that?—A. Well, I think so. I would not swear positively to it, sir.

Q. Well, when was it; in what year was this deposition taken of which you have been testifying?

Mr. KENNEDY. Mr. Chairman, the deposition is a matter of record and the date of it of course shows.

Mr. FOSTER. I am testing this witness's recollection, Mr. Chairman.

The CHAIRMAN. Well, that is all right then.

Mr. FOSTER. It is for that purpose. You see the object of my question?

The CHAIRMAN. That is all right then. If you are testing his recollection that is all right.

The WITNESS. 1868, I think, sir.

By Mr. FOSTER:

Q. When was it that Adams had the trouble with Green about which you have testified; before or after the taking of this deposition?—A. I think it was before.

Q. How many depositions were taken before you in this La Abra case?—A. Well, that is a pretty hard matter to tell, but I should say—

The CHAIRMAN. You mean "what deposition."

Mr. FOSTER. I mean depositions to be used before the Commission.

The CHAIRMAN. "What depositions" instead of "how many?"

Mr. FOSTER. No; I mean the number of them, and then I will ask him if he can give the names of the deponents.

Q. If you can fix the number approximately.—A. Well, I can not fix it because there were two sieges at it; the first time and the second time; and take them altogether I should think there were some twenty or twenty-five any way.

Q. In whose behalf were they taken—of La Abra Company or Mexico, or both?—A. In behalf of La Abra Company.

Q. Did you take any depositions in behalf of Mexico relating to this claim?—A. No, sir.

Mr. KENNEDY. Do you mean in behalf of Mexico, Mr. Foster, or on behalf of Mexican citizens against the United States?

Mr. FOSTER. No; I mean were any depositions taken in behalf of the Mexican Government in relation to this La Abra case?

Mr. KENNEDY. Oh, yes; in rebuttal of La Abra witnesses.

Mr. FOSTER. Yes.

The WITNESS. Mr. Gouna, the district attorney of Mexico—the same as United States district attorney would be here with us—came to me with a letter from Mr. Zamacona, and wanted to know if I could give him any information in regard to it—rebuttal testimony; if there was anything in the consulate about it; and I showed him all the assistance; found out everything I could about it, and also told him some Americans that lived up in that portion of the country that ought to know about it. Whether he—he never came before me.

By Mr. FOSTER :

Q. Then these twenty or twenty-five depositions that were taken before you were all in behalf of the La Abra claim ?—A. Yes.

Q. Who represented La Abra claimants at the taking of those depositions ?—A. General Adams was the man that got up the depositions ; was at the head of it.

Q. He superintended the taking of all these depositions ?—A. He came there for that purpose ; yes.

Q. How many of these depositions were prepared in his hotel, and how many in the consulate, relatively, to the best of your recollection ?—Well, I should, to the best of my recollection, say half in half.

Q. You state that—A. That is a guess, of course.

Q. You state that the depositions, when they were prepared, finished at the hotel, were brought to the consulate ?—A. They were sometimes ; yes.

Q. And they were often corrected, did you state ?—A. Yes ; sometimes they would be corrected, and have to start and do it all over again.

Q. Why ?—A. Well, because it would be found that there would be errors in writing of it, and then may be the witness would catch hold of something that he said that he did not want to say in that light.

Q. Did the witnesses often find fault with the depositions, as brought down from the hotel ?—A. No ; very rare cases ; but there were such cases.

Q. Well, why were they required to be written all over again ?—A. Well, to make it look good ; not have it interlined, crossed out, and put in.

Q. Who caused these interlineations, the witness or General Adams ?—A. Well, the witness would call attention to it, you know.

Q. Then it was the objection of the witness that caused the depositions to be rewritten, was it not ?—A. Yes, of course ; that is, unless once in awhile there would be a clerical error or something ; but most generally the witness.

Q. A clerical error would not require the deposition to be written over, would it ?—A. No ; not unless it proved to be a very big one.

Q. I understand you to say that you did not regard it your duty to superintend the taking of these depositions directly ?—A. I did so.

Q. How ?—A. I said so.

Q. Yes ; you so understand your duty.—A. That is as I understood it.

Q. These depositions that were taken in the consulate were taken under the supervision of General Adams, were they ?—A. Well, they were there ; yes.

Q. In which office were they taken ?—A. Well, they were taken in the general office ; the office of the consulate.

Q. Where did you spend most of your time ?—A. Right there then.

Q. In the same room ?—A. In the same room. I spent all of my time thereabout. My desk was there—a desk like that right there [indicating]—and I staid there.

Q. Have you not said that you were not present a great portion of the time that the deposition of Captain Dahlgren was being reduced to writing ?—A. I stated I was in and out there some, yes ; but I could hear everything that was going on.

Q. You could hear in the other room, could you ?—A. Yes, just as well as I could hear in that corner [indicating].

Q. Then you spent most of your time during the taking of that dep-

osition in the other room, did you not?—A. No, not the most of it. It might have been about half and half, but not the most of it, because, as I said before, when they talked about getting it up I did not consider it my duty.

Q. That you did not understand that that was a matter you had supervision of?—A. No, sir; not according to my instructions.

Q. Then you did not pay much attention to what was going on, did you?—A. Not a terrible sight; no. All that I was watching for was when they got it through and got it all right I would have it signed and sealed and got rid of as soon as possible.

Q. Was there much discussion?—A. No, sir; I do not recollect there being much.

Q. How long were they engaged in the taking of this deposition; how many hours, or what period of time?—A. Oh, I can not tell you exactly. They got through in the morning, I should think, some time. I should say it was probably not far from 8 o'clock when he came. I can not tell exactly, and I think it was between 1 and 2, as near as I can recollect, when he went away.

Q. Well, we will return to that in a few moments. I want to ask if you can name any of the witnesses whose depositions were taken before you in this case. You have mentioned twenty or twenty-five; can you recall the names of any of them?—A. Yes, I guess so. I think Mr. Dana was a witness, a gentleman by the name of Clark was a witness, a gentleman by the name of Crider was a witness. I think the two Gamboas were witnesses, and there are several more, but I can not call them all by name now. Avalos, I think, and Granger. I do not know whether Crider was sworn or not; I would not swear to it. I do not recollect any more just now.

Q. If you think of any more before your examination is closed you can have the privilege of stating them.—A. It may come to me.

Q. Did you ever meet Charles H. Exall?—A. Yes.

Q. At what time and where?—A. I met him in Mazatlan the week, I think, that I arrived there or two weeks latter, in 1866.

Q. When you arrived there the first time?—A. When I arrived there the first time. Just merely saw him there; had but very little conversation with him, and that was all.

Q. When did you next see him?—A. Never saw him afterwards that I know of.

By the CHAIRMAN:

Q. Where was he going?—A. I think he returned home to San Francisco; think he was down there to take the steamer when I saw him. Never had but a few words with him.

By Mr. FOSTER:

Q. You fix that time in 1866?—A. It was when I first arrived there. It might have been in January, 1867. It was in the winter there at that time. I mean it was the winter season.

Q. Well, you know the month you arrived there, do you not? You can fix that, can not you?—A. No, I won't be certain what month I arrived there. I know I left home in 1866. In January, 1866.

Q. How long were you engaged in your journey before you reached Mazatlan?—A. About a month or six weeks, I guess.

Q. Then can not you fix approximately your arrival in Mazatlan?—A. Well, I think it was in February, 1866.

Q. Well, how long after your arrival there was it you met Exall?—A.

I think the first week. I think I was not there a week. I think he returned on that same steamer that I went down on.

Q. Then he must have returned late in the winter or early in the spring of 1866, if your recollection is correct. Is that so?—A. No, sir.

Q. Well, let us have your best recollection on that point.—A. What I say is that I arrived there in 1866.

Q. You said that you arrived there about February, 1866.—A. Well, I will change that to 1867. I said I left in 1866 or left in January, 1866; I meant to say so.

By Mr. LINES:

Q. Left home?—A. December, 1866. We will get at it after a while.

By Mr. FOSTER:

Q. Now, let us have it as nearly correct as you can fix it. You left home when?—A. December, 1866.

Q. And arrived at Mazatlan when?—A. February, 1867.

Q. You met Exall when?—A. I think in 1867.

Q. About what month?—A. Well, I should say in February.

Q. February, 1867?—A. Yes.

Q. Where was he going?—A. I think he was going home; going to take the steamer.

Q. Did you have any conversation with him?—A. Merely an introduction, I think, and that was all.

Q. Did he call at the consulate on any official business?—A. No, sir; not with me.

Q. He had no conversation with you about any official business?—A. No, sir.

Q. Had nothing to say to you that directed your attention to any business that would be required of you as consul?—A. No, sir.

Q. Do you know where he came from?—A. No, sir.

Q. What I mean, came from when he arrived at Mazatlan returning to the United States; from what point that is?—A. Oh, I understand; he came from the mines up there.

Q. What mines?—A. The Durango Silver Company's mines, or I don't mean that; this La Abra mine, right in the same neighborhood.

Q. Then, you understand that when he arrived at Mazatlan he had come from La Abra mines?—A. That was my supposition; yes.

Q. You have never seen him since that day?—A. I do not ever recollect having seen him since that day.

Q. You think he went to San Francisco upon the steamer upon which you arrived?—A. I think he did.

Q. Well, we will return to this matter of the deposition. You state that you had an interpreter at the consulate?—A. Yes.

Q. Who acted as the interpreter in the taking of the depositions which were superintended by Adams, of which you spoke?—A. There was Peña and Galan, I think, and a gentleman named Andrado.

Q. None of these persons that you have named had any official connection with the consulate?—A. None.

Q. They were employed by Adams?—A. Yes, sir.

Q. You have mentioned Galan before?—A. Yes.

Q. Then I understand you to say that Galan was acting as an interpreter for Adams?—A. Sometimes he did.

Q. Do you know whether he acted in any capacity as an interpreter for him? He was a lawyer by profession, was he?—A. I think he did assist him a little in some way professionally—called upon him some way, some shape; I am not sure.

Q. Then his relations with Adams were of a professional character?—
A. I suppose they were.

Q. Now, Mr. Kennedy on the direct examination read to you the testimony of Captain Dahlgren before this committee in which he gives the conversation that he had with you when he stated that he signed this blank sheet of paper. You stated in answer to his question that you can not recollect what Dahlgren said to you.

Mr. KENNEDY. No, Mr. Chairman—

Mr. FOSTER. Well, let me get through. He will correct me when—but you can not swear that he never requested you to copy out those rough notes, but you can swear that you never promised him to do so?—
A. Yes.

Q. I state correctly your recollection?—A. Yes.

Q. Then you are not prepared to swear that Dahlgren never asked you to copy out the rough notes?—A. Never recollect any such thing.

Q. You are not prepared to swear he never did so?—A. No, I am not prepared to swear he never did it.

Q. What you mean to state in that connection is that you never made him any such promise?—A. Yes.

Mr. KENNEDY. I object to Mr. Foster's putting words in the witness's mouth that he did not use. He just said a moment ago that he had no recollection.

The CHAIRMAN. This is cross-examination, Mr. Kennedy.

Mr. KENNEDY. I understand that, but it stops at assuming that the witness had said what he never said.

By the CHAIRMAN:

Q. If he makes any such assumption as that in any question put to you, Mr. Witness, you can state what you did say and what you didn't say.

Mr. FOSTER. In propounding the question I said the witness could correct me if I was in error in my statement of what he had said.

Q. Now, I want to ask you whether your denial of any promise is based upon your specific recollection of that fact or upon your recollection of your general practice in regard to taking the depositions?

The WITNESS. Put that question again.

(The stenographer read the question.)

Mr. KENNEDY. Now, Mr. Foster, that the witness may not misunderstand, please insert after *promise* "to copy out the rough notes."

Mr. FOSTER. Very well.

Mr. KENNEDY. Now read the question again.

The stenographer read the question as follows:

Q. Now, I want to ask you whether your denial of any promise to copy out the rough notes is based upon your specific recollection of that fact or upon your recollection of your general practice in regard to taking the depositions?

A. Well, I should say both. I can not recollect of denying that. I can not recollect of promising any such thing; do not think I ever did.

By Mr. FOSTER:

Q. You have stated that you think there were twenty or twenty-five depositions taken. Are you able to recall all the incidents that occurred in respect to all those depositions?—A. No, not all of them altogether, unless my attention has been called to it. If you call my attention to any one particular thing, and get started on it, as it has been called up in this case, I might. If you ask me about any man's deposition, get your book and ask me about any man's deposition, call my attention

to it, and then I will explain to you, but I can not pick them all up in a minute.

Q. If I understand, you have stated that an oath was not administered to Dahlgren until after he had finished his examination with General Adams, and when he came to sign the deposition as copied from the rough notes and written out. Am I correct in that?—A. No, no.

Q. Please state what the accurate fact as to the time of the taking of his deposition was, of administering the oath.—A. The administering of his oath was when he commenced to read the true copy, as you may call it, over.

By Mr. KENNEDY:

Q. Whom do you mean by "he"—"he commenced to read?"

By the CHAIRMAN:

Q. When he commenced to read it, or was it after it had been read?—

A. Before it was read; when we got the deposition all right and straight then commenced to read, the oath was administered.

By Mr. LINES:

Q. Who commenced to read?—A. Mr. Peña.

By Mr. FOSTER:

Q. You have changed your statement somewhat as to who read the deposition to him. I think you first—

Mr. KENNEDY. No.

The WITNESS. I guess not.

By Mr. FOSTER:

Q. Wait a moment; just wait until I get through.

Mr. KENNEDY. It is not a question, it is a statement.

By Mr. FOSTER:

Q. I have not finished yet; I am not through yet; my notes show that you first said that "the deposition was partly read by me, and partly by Peña," and then afterwards you stated that you could not swear that you read any of the deposition, but that Peña, you thought, read it. Now, I want you, if I am not correct, to correct me and state accurately the fact to the best of your recollection on that point.—A. Well, you have not got what I did say, I don't think.

Q. Well, what was the fact as to who read the deposition in whole or in part?—A. I said Peña read the deposition until they came to the corrections—the notes at the bottom of it—then I took hold; that is what I said.

Q. Then the body of the deposition was read by Peña.—A. Yes.

Q. And the corrections were made by you?—A. Yes.

(The committee took a recess of half an hour.)

By Mr. FOSTER:

Q. Do I understand you that General Adams made two visits to Mazatlan for the purpose of taking depositions?—A. He did.

Q. How long was he there at the last visit?—A. Oh, I can not tell you, sir.

Q. Some weeks?—A. I merely guess at it. Oh, yes; I should say some two months.

Q. He was in and out of the consulate?—A. Very little; no, sir. I seldom ever saw him at the consulate unless he came with witnesses.

Q. Well, he was often there with witnesses, was he not?—A. I say he seldom came unless he came with witnesses up there.

Q. Well, you have stated that a number of these witnesses were examined by him in the consulate?—A. Some of them; I state that now; I thought you meant outside of the business.

Q. Oh, no; I meant was he not often in the consulate; spent a considerable portion of his time there?—A. Never spent any of his time there except with the business of the testimony.

Q. That is just what I want to get at; taking the depositions.—A. Taking and fixing up these depositions.

Q. A number of times?—A. Yes.

Q. Well, he was frequently in and out of the consulate during this time, was he, in taking these depositions?—A. Only in taking the depositions. He was a very small visitor at the consulate; seldom or ever called there.

Q. Did not you see him often?—A. Yes, quite often.

Q. Where did you see him?—A. I saw him some evenings at the club.

Q. Did he never come down to the consulate to call on you and talk with you?—A. Oh, yes; when he first came there. He made an official call when he first came there, and went out about his business.

Q. I say during his visit did not he come down to the consulate and have any conversation with you without coming for the specific purpose of taking depositions?—A. Very little.

Q. Well, but did he make any visits?—A. I don't know that he ever made one after his first call, unless he had business; unless he had witnesses.

Q. I understand you to say that the only part of the deposition which you read to Dahlgren was that part which contained the corrections?—A. Yes.

Q. The deposition was in the handwriting of Peña?—A. Yes.

Q. Including the corrections?—A. Yes, sir.

Mr. KENNEDY. Mr. Chairman, before this witness is dismissed we would like to have that original deposition here again if you could get it for us.

The CHAIRMAN. Well, he said he examined it yesterday. What is the particular reason you want it here?

Mr. KENNEDY. Well, we would like him to take it in his hand before the committee.

The CHAIRMAN. Oh, he examined it yesterday.

Mr. FOSTER. We are prepared to accept the printed copy as correct.

Mr. KENNEDY. No, no; I mean that we would like the witness, instead of simply saying that he had seen the deposition in the State Department, to be able to say in the presence of the chairman of the committee, "Here is the deposition in question, and"—if this is the fact—"this is the deposition that Dahlgren signed when Peña read it to him and when I administered the oath to him."

Mr. FOSTER. We will admit the fact that the deposition which he saw in the State Department is the deposition that was before the committee.

The CHAIRMAN. He certainly has testified very clearly about it that the deposition is written out just as it appeared there, and that the name was signed to it after it was written. There is no question about that.

Mr. KENNEDY. Well, if the chairman is satisfied with that of course I am.

Mr. FOSTER. We are prepared to admit anything you desire in order

to avoid the necessity of bringing an officer of the State Department here again.

Mr. KENNEDY. That is satisfactory.

By Mr. FOSTER:

Q. I understand that your intention or participation in the taking of this deposition officially began when it was completely written out; the rough notes copied and ready for signing?—A. Yes, sir.

Q. I think you stated that it had been written out by Mr. Peña?—A. Yes, sir.

Q. Did you see the rough notes at the time the oath was administered to Captain Dahlgren?—A. Oh, I might see papers lying on the table there—they had several of them sprawled around—but, as I said before, I did not consider that my duty to help get up affidavits.

Q. Now, after it was signed I understand that you put it in the hands of your interpreter—official interpreter?—A. Yes, sir.

Q. For the purpose of attaching the ribbons and seal?—A. The ribbons and seal.

Q. How long was he engaged in that, or did he do it immediately?—A. Right off; immediately. It was done right there and then; just as soon as he could do it. The whole business was through very quickly.

Q. Do you think that you can remember so accurately when there were 20 or 25 depositions taken?—A. I remember that fact; yes.

Q. Why is your recollection?—A. I remember all of them, so far as that went. There never was a deposition taken there but what the moment it was taken it was all signed and sealed and these ribbons put on instantly and at once. Never a deposition was allowed to be taken away or laid over until it was thoroughly fixed in that way.

Q. Where was the seal; in that room or in the adjoining room?—A. Right in the room.

Q. How long was Peña engaged in reading this deposition?—A. Oh, I don't know. I can not tell you; quite a little while.

Q. Half an hour, did you not state?—A. Yes; I stated half an hour. I should think all of that, probably.

Q. Did you remain present all the whole time?—A. I was in there; yes.

Q. Paying attention to it, or attending to other business during the whole of that time?—A. I was there during the whole reading of it; was not doing any other business there. Dahlgren and Galan stood up; Peña stood here and Adams right there, and I sat right there [indicating]. It was all around the consulate table—a table just like that desk there.

Q. The certificates which you attached to the depositions that were taken in that case embrace a statement of a number of facts besides administering the oath?—A. Yes.

Q. I notice, for instance, that you certify as to the standing of Captain Dahlgren; his reputation in the community among the merchants, etc.?—A. His standing as a man.

Q. I call your attention to that, so that you may see that there were a number of other things stated in the certificate attached to the deposition besides the certificate as to the oath?—A. You have got the original form there that was sent from the Department?

Q. No; it is this form attached to this particular deposition that has attracted my attention to these facts.—A. I thought it was official from the Department.

Q. No. I have not that. Now, were you particular as to the certifi-

cate that you attached to that deposition; as to the statements contained in it?—A. Yes; I have to be very particular.

Q. You are sure that all the facts stated in that certificate are correct?—A. Well, to the best of my knowledge and belief.

Q. You certify here—

that he [Dahlgren] was by me first duly sworn, as a witness on behalf of claimant, to state the truth in answer to said interrogatories propounded by me.

Q. How does that conform to your statements that you have made here that this deposition was taken by Adams?—A. Conforms very well.

Q. Did you propound the questions to him?—A. They were propounded in my presence.

Q. I ask you whether you propounded the questions to him?—A. I considered it so. I stood there, and they were propounded in my presence.

Q. But not by you?—A. Oh, I don't know; I don't think they were.

Q. How do you understand that you propounded the questions?—A. I understand that when he took the oath, and then they were read over to him in my presence there, that I propounded the questions to him.

By Mr. LINES:

Q. Did he make any answer?—A. At my request—

Q. Did he make any answers at that time to any of the questions?—A. He said it was so.

By Mr. FOSTER:

Q. Did he say so verbally or by signing the documents?—A. Both ways.

Q. Then the only propounding of questions that you meant was when this document was read over by Peña immediately previous to his signing it?—A. Yes, sir.

Q. You have testified, have you not, that the examination took place under the superintendence of General Adams and occupied two or three hours, or some hours?—A. I don't know anything about that, and have not testified so, that I know of.

Q. What have you testified to in regard to that?—A. That is, so far as I was concerned?

Q. Yes; and their getting up the affidavits there.—A. As I testified half a dozen times before, I did not take hold of it until the deposition was all finished and when they got through with it.

Mr. LINES. I think affidavit is a better word for it.

Mr. KENNEDY. No; it has been known as a deposition.

Mr. LINES. Well, we are finding out now something about it, and it strikes me as more of an affidavit than anything else. Let me ask, Mr. Sisson, when Mr. Peña read over the questions, which you considered as propounding the questions, by you, did he not read over the answers also?—A. Yes.

Q. He propounded the answers at the same time that he propounded the questions, then?—A. Call it what you please.

By Mr. FOSTER:

Q. You continue to state—

That the foregoing testimony was given by him, and thereupon reduced to writing by H. Diaz Peña, in my presence.

Is that literally true?—A. I expect it is.

Q. Have not you stated that this deposition was copied from the

rough notes by Mr. Peña, and then that you were called in to swear to it?—A. Oh, I was in and out, and in there most of the time, and was not out of sight, as you may say; was right within hearing, could hear all that was going on; I might have been called in for a moment or two.

Q. Do you continue to certify—

That the foregoing deposition, when completed, was carefully read over by me to said witness?

Is that true?—A. Read over in my presence.

Q. That is not what I asked you—

That the foregoing deposition, when completed, was carefully read over by me to said witness.

Is that true?—A. Well, I will not say it is literally. I say that I considered it so; that I stood there and the deposition was read over.

Q. That is not what you certified to. You certify—

That the foregoing deposition, when completed, was carefully read over by me to said witness.

I again repeat the question. Was that true in fact?—A. I can not say it was all read by me, but it was read in my presence.

Q. I repeat the question again—Was that true in fact?—A. Well, I have told you my answer.

The CHAIRMAN. He says he can not say; "can not say it was read over to him by me."

The WITNESS. I consider it read over to me when it is read over by the secretary.

Mr. FOSTER. It was not read over to him by the witness.

Mr. KENNEDY. Mr. Chairman, I think that is a matter of argument when it has been continued as long as this. The witness says that he considers when his secretary or interpreter read the questions and answers that that was a reading of the questions and answers by the witness. I suppose on the principle that what one does by another, according to the legal maxim, he does himself.

Mr. FOSTER. The chairman can see, I think, my object in being particular on this point is to show the carelessness with which this whole matter was done.

The CHAIRMAN. I understand that; but then he had stated, General Foster—

Mr. FOSTER. I am not pressing any further questions. I have completed that.

The CHAIRMAN. Go ahead, then.

By Mr. FOSTER:

Q. You further certify—

And was by me corrected in every particular desired by him.

Did you make any corrections in the deposition yourself personally?—

A. Looked over this as I have stated—

Q. I ask you whether you personally made any corrections and reduced them to writing?—A. No, no; I did no writing myself.

Mr. KENNEDY. Now go on and finish your answer.—A. I say that I personally looked over and called his attention to the corrections that were made in the deposition.

By Mr. FOSTER:

Q. You have testified, if I understood you correctly, that every word in the deposition now in the State Department was read to him, Dahl-

gren, before signing. Now I want to direct your attention to the fact that you have stated that you took twenty or twenty-five depositions, and if I direct your attention to the fact that you have in fixing the dates of the taking of these depositions made a mistake in your recollection of four years, and that you have fixed the time for the taking of these depositions four years before the events themselves occurred, I want to ask you whether you are now prepared to swear that every word in the deposition now in the State Department was read to him, Dahlgren, before signing?

Mr. KENNEDY. Now, Mr. Chairman——

Mr. FOSTER. Wait until I get through.

Q. Is your memory so accurate, in view of these facts, that you are able to swear now that every word in the deposition now in the State Department was read over before signing?

The CHAIRMAN. Now, wait a moment. Have you any objection to that, Mr. Kennedy?

Mr. KENNEDY. Yes, sir

The CHAIRMAN. State it.

Mr. KENNEDY. On the ground that it is an argument with the witness and that the attempt is to draw an inference that because the witness, in fixing dates from memory of events twenty years ago, may have been mistaken, that, therefore, he may have been mistaken in an entirely different matter, to wit, whether the deposition, as a whole, was read there by Peña to Dahlgren. It is argument for summing up.

Mr. FOSTER. I ask this question because I think it is due to the witness to allow him to correct himself if he has inadvertently made a declaration which he does not wish to stand in its present shape.

Mr. KENNEDY. Mr. Chairman——

The CHAIRMAN. Stop. I can not allow all this to go on the record. It is getting too voluminous. The question is a sharp test of the witness's recollection as to what actually occurred and is a legitimate method of examination to prove whether or not the certificate made at the time accorded with the facts as he now remembers, and is his memory of the facts different. The stenographer will read the question.

(The stenographer read the question as follows):

Q. I want to ask you whether you are now prepared to swear that every word in the deposition now in the State Department was read to him, Dahlgren, before signing.

The WITNESS. Well, I ask the favor of the chairman one moment to say this, if it is proper; if it is not proper, why it need not be put down: That I have made no preparation; that I have looked over and seen nothing in regard to this, and if I have inadvertently made a mistake—and when I found out that the treaty was not made until the 4th of July, 1868, I have got the proceedings mixed up a little between the first and second time of my arrival at Mazatlan—the dates thereof. It was a good many years ago, and my attention not being called to it at all, except with this one case, therefore I have no doubt but what I have made some mistake in dates in going and coming and returning.

Mr. FOSTER. Can I ask him whether he has had a conversation with Mr. Kennedy since the adjournment on this point?

The CHAIRMAN. I have no objection to that.

The WITNESS. No, sir.

By Mr. FOSTER:

Q. You have not talked with Mr. Kennedy on this point since we adjourned.

By the CHAIRMAN :

Q. During the recess ; have you or have you not ?—A. Have I ?

Q. Yes.—A. Not particularly on this point.

Q. Now, Mr. Sisson, as we are giving you a chance, as you seem to have become a little embarrassed and tangled in your statements about dates, etc., make a full and complete statement, consecutively, in your own way without any interruption by anybody. I would like to ask you the question now to state all that occurred and just as it occurred on that day that you say Dahlgren signed this deposition and swore to it in your presence. Now, gentlemen, don't interrupt him. Now, you have the whole field before you and can make your own statement.—A. Well, my statement is this : That on the morning of that day they came up there, Mr. Dahlgren, General Adams, Mr. Peña, Mr. Galan. My secretary was there. I think there were two or three more people in the office, but I will not be sure about that. They came in there with papers in their hands ; said they were going to make out a deposition, and they went to work at their deposition and wrote a good while about it, as I have said before. While they were doing that I did not pay much attention. I was around there, most of the time in there but sometimes not ; sometimes in the next room, but so I could hear all the time everything that was going on and everything that was said, and I told them when they got the deposition ready, everything straightened up, I told them, "When you get it ready then we will have it signed and swear to it." Then after a while Mr. Peña got through copying and I went in and the whole thing was read over. Mr. Dahlgren was sworn to the testimony and it was read over in my presence, I standing right there and all standing right there, and he signed it, and the moment he signed it he got on his mule and left. Then the affidavit was attached to it. As soon as he signed it Mr. Peña signed it as a witness. Then my affidavit was attached to it. Then the ribbons were put in and seals, and all sealed up and fixed up right there and then. It was not but a short time, a few minutes after Mr. Dahlgren went away, that it was all fixed up and Mr. Adams took it and left. That is just the true story about the thing.

Mr. KENNEDY. Now, Mr. Chairman —

The CHAIRMAN. Wait a moment now. The stenographer will read that statement over.

(The stenographer read the answer as above.)

By the CHAIRMAN :

Q. Have you anything to add to that ?—A. No, sir ; that is my statement.

The CHAIRMAN. That is all right. Well, gentlemen, we will close the examination on that.

Mr. FOSTER. I want to ask him this question ; that is, if you do not consider that closed by this : Whether he would be able to make a statement as detailed as he has in reference to the twenty or twenty-five other depositions that have been taken.

The CHAIRMAN. You can ask that to test his memory.

The WITNESS. I will if my attention is called to it probably as much as this.

By Mr. FOSTER :

Q. Would you be able to swear that every word in each one of those twenty or twenty-five depositions to which you have attached your certificate and seal were the exact words used by the witnesses at that time ?—A. I will swear they were the exact words as interpreted by the

interpreter and read over anywhere. I would swear that there never was an affidavit taken there but what it was thoroughly read over to the witness. If it was in Spanish it was translated, and if in English it was read over.

Q. That is not the point.—A. Well I am going to state that—

Q. What I want to know is—

Mr. KENNEDY. If you say his answer is not responsive I suggest that the question be read again.

The CHAIRMAN. The stenographer will read the question and answer.

(The stenographer read the question and answer as follows:)

Q. Would you be able to swear that every word in each one of those twenty or twenty-five depositions to which you have attached your certificate and seal were the exact words used by the witnesses at that time?—A. I will swear they were the exact words as interpreted by the interpreter and read over anywhere. I would swear that there never was an affidavit taken there but what it was thoroughly read over to the witness. If it was in Spanish it was translated, and if in English it was read over.

Mr. KENNEDY. Now, Mr. Chairman, I say that appears to be responsive.

Mr. FOSTER. I am not pressing it any further. If he thinks it is an answer I am satisfied.

The CHAIRMAN. All right.

By Mr. FOSTER :

Q. I want to ask you something about the condition of the country when you arrived there. I think you have it now, February, 1867; is not that your last best memory?—A. I think that I left in 1866, and that is the time I arrived there. I had to go to Panama and around a good deal, and it took me a good deal of time to make the trip; I had to go 7,000 miles.

Q. Were the French in possession of any part of that country there when you arrived?—A. Yes.

Q. What part of the country?—A. They were at Acapulco.

Q. I mean at or in the vicinity of Mazatlan?—A. No, not when I arrived. They had just left Mazatlan a short time before I arrived. There were no French troops there.

Q. How long before you arrived had they left?—A. Oh, I think it could not be more than six weeks or something like that, may be two months; I don't know, a short time before. They were at Acapulco, but they left.

Q. How long did they occupy Mazatlan, more or less?—A. I can not tell you.

Mr. KENNEDY. He says he was not there.

The WITNESS. I was not there when the French occupied it, but I heard the old story of it told over. I think, to the best of my knowledge and belief, they were there a year very nearly; I would not say exactly.

Q. What condition was the country left in on their abandonment?—A. It was left in a pretty bad condition. General Corona was the man that was in power when I went there.

By Mr. FOSTER :

Q. He was a Mexican Republican general?—A. He was a Mexican Republican general, and afterwards sent minister to Spain. The gentleman acting governor was Governor Rubi.

Q. You have referred to some American mining companies that were driven out during your residence in Mazatlan, I think?—A. Yes.

Q. You mentioned the Rosario and Carmen. That is one company, as I understand it?—A. That was one company; yes.

Q. Did you mention or can you mention any others?—A. Well, I don't know as I can, that were forcibly driven out. Up to Cupala they suffered a little, and I think they did quit there for awhile, and after order was restored went back again, but I can not testify to any more that were really driven out and quit altogether.

Q. Now, what do you know about the Rosario and Carmen Company being driven out?—A. Oh, I know by what the superintendent told me and what some of the men interested in there told me.

Q. What did the superintendent tell you?—He told me he was shot and wounded very bad, and they took possession; he was driven out and had to go away.

Q. Who did this shooting?—A. The Mexicans.

Q. What Mexicans; citizens or soldiers, or officials or authorities?—

A. It was one of the authorities, I believe.

Q. Did he mention the name of the authority that shot him?—A. I don't know that he did. It was up in this neighborhood. I think it was some of those connected with this La Abra or Dahlgren affair there. I think Dahlgren had something to do with the man at one time, but still I am not sure about it.

Q. Dahlgren was not there at the time it occurred?—A. No, he was not there, but I say he had something to do with the same man, the judge, whatever you call him; no, he was there afterwards.

Q. Well, is that all you know about the trouble that occasioned the driving out of the Rosario and Carmen Company?—A. Oh, they made a claim of it, and took depositions in regard to that.

Q. Took affidavits for what purpose?—A. Oh, claims against Mexico.

Q. They brought a claim against Mexico, then?—A. Against the Mexican Government, and took depositions the same as this.

Q. Do you know what the result of the presentation of that claim was?—A. It was thrown out.

Q. The commission rejected the claim?—A. Mr. Thornton rejected that claim; yes, sir.

Q. You have spoken of some companies which were, as you term it, *prestamoed*?—A. Yes, sir.

Q. What do you mean by that?—A. Well, when a revolution starts, of which there were several, the party that gets up the revolution generally starts for some place where there is a mine or something of that kind to raise some money to carry on the war, and they will go and demand a forced loan of the mine. They must give so much money right there, and then, and it is forced out of them at the mouth of the musket.

Q. Can you name any of those companies that were *prestamoed*?—A. I could name one of the men. I forget now what they called his mine. I know where it was—a place called Cupala.

Q. Who was the man?—A. Mr. Best, the man who governed the Belcher mine in Nevada there.

Q. What was the amount *prestamoed*?—A. I think about \$500.

Q. Do you know who made the levy?—A. No, I do not; I don't know who the commander-in-chief was then.

Q. Do you know whether he was an officer or chief of the Mexican Government?—A. No; he was a filibuster or revolutionist, as you might call him. It was paid to the revolutionists.

Q. Not to the organized Government?—A. Not to the regular army.

Q. Well, do you know whether the trouble that occasioned the driving out of Rosario and Carmen mine was the act of revolutionists or the

Government?—A. No; that was a kind of private affair among themselves, the way that their depositions run; trouble with the authorities there, and the authorities drove them out.

Q. Then it was a personal difficulty between the authorities and the superintendent?—A. Well, it was the authorities. What I mean by personal, it was not a revolutionary affair or anything of the kind. It was between the authorities of the place, the judges and the owners of the mine, or the superintendent of the mine, rather.

Q. Were you invited by the Sergeant-at-Arms to bring with you correspondence had between you and the State Department?—A. Yes.

Q. Have you brought it with you?—A. No, I did not, for I have not got it; have not seen it for a long while; don't know whether I left it in Mexico or not.

Q. Did you receive a letter from the Department of State asking for your resignation?—A. Yes, sir.

Q. Do you remember the date of that letter?—A. No; I do not.

Q. Do you remember whether it was on the 2d of December, 1874, or about that time?—A. Well, I can not tell whether it was 1874 or 1875. It was along in the fall. It might be 1874; I guess it was 1874 or 1875.

Q. When did you reply to that communication?—A. Right off.

Q. Have you a copy of your reply?—A. No, sir; I wrote it right here in this city.

Q. What is that answer?—A. I replied to it right here, I think.

Q. In this city?—A. Yes; I think it was. I forget whether I replied to it here or as soon as I got to New York, but it was within the next day or two, any way.

Q. Were you here when you received the letter?—A. Yes.

By Mr. KENNEDY:

Q. That is, in this country, you mean?

Mr. FOSTER. No.

The WITNESS. Right here in Washington.

By Mr. KENNEDY:

Q. When you received the letter?—A. When I received the letter notifying me my resignation would be accepted; yes.

By Mr. FOSTER:

Q. But you are not sure whether you replied to it here or in New York?—A. I can not tell exactly which, but my impression is that I replied to it in New York City. I think I was about ready to take the train when I got it.

Q. You mean New York City?—A. Yes.

Q. Did you receive a letter from the Department accepting your resignation?—A. No, sir.

Q. You received no letter dated the 5th of December, 1874?—A. Well, I am not sure about that now; it appears to me that I did. But I would not swear whether I did or did not.

Q. Why did you not bring this correspondence with you?—A. For the simple reason that I didn't have it.

Q. Where is it?—A. I don't know, unless it is in Mazatlan.

Q. Did you make any search for it among your papers at home?—A. Yes; looked all over. It is a long time and I never brought anything but particular private papers; half of them left there; everything but my first appointment and the exequator, and one or two more documents like that were left there.

Q. But this correspondence took place while you were in the United States?—A. Yes.

Q. If it is in existence, would not it be among your private papers at home?—A. It can not be in existence, because I looked diligently for it.

Mr. KENNEDY. He says he went back to Mazatlan.

By Mr. FOSTER:

Q. You are satisfied, then, it is lost?—A. I am satisfied it is; that is, lost to me; I can not find it.

Mr. KENNEDY. You will want to have copies of the correspondence between the State Department and this witness introduced in evidence?

Mr. FOSTER. Yes; I will make application for them.

By Mr. KENNEDY:

Q. Now, I want to ask you, as your attention has been called to various dates, such as the dates of the different visits of General Adams at Mazatlan and the time when you first saw Dahlgren and the time when you first saw Exall—I wish to inquire whether prior to this examination you examined the records or any printed papers in this case for the purpose of refreshing your recollection about the dates?—A. No, sir; I did not. I did not have a chance to see anything of them—have not been where anything was.

Q. So that all the answers that you have given outside of the record in regard to the dates of those various occurrences have been from your present recollection purely?—A. From my recollection. If I find I am mistaken, as I said before, I have got some things mixed up on returning the second time there; I have got them mixed with the first time, I think, about seeing Mr. Exall. I think that I arrived both times about the same time of the year.

Q. That is, your first arrival and your return to Mazatlan after your absence were both in the winter?—A. Both in the winter season.

Q. And how long apart?—A. About two years.

Q. Now, what reason have you, if any, for thinking that Galan acted as an attorney for Adams, an attorney-at-law, I mean, as distinguished from an interpreter?—A. Mr. Galan was a lawyer, a general lawyer for all Americans there, and was used to getting up affidavits and one thing or another, and did a good deal of law business with different correspondents in San Francisco, and I was thinking at one time that he and Adams got up—had something to do with getting up—affidavits or something, in short, outside of the claims business. I can not tell for certain about it.

Q. Will you state whether Adams ever said to you, or Galan ever said to you, that Galan had been employed as attorney-at-law by Adams?—A. No; I don't know as I can.

Q. So that it is a mere impression?—A. It is a mere impression that he was consulting him on some law points.

Q. Were you outside of the consulate rooms at any time, during the presence of Dahlgren and Adams and Peña, while the deposition in question was in course of preparation?—A. No, sir; I don't think I was out of hearing at all.

Mr. KENNEDY. Now, Mr. Chairman, if I may have your attention a moment. This witness has been asked by Mr. Foster to produce the correspondence touching his resignation of his consular office between the State Department and himself. I would would like to ask the witness—as at the present moment, the correspondence not having been produced, the questions of Mr. Foster may seem to cast a shadow on

the witness—I would like to ask the witness to state the circumstances briefly under which his resignation was requested and given.

The CHAIRMAN. Perhaps I had better say, Mr. Kennedy, that the correspondence would not be evidence in this case unless it was produced, or its absence accounted for, and the witness furnished an opportunity to explain it.

Mr. FOSTER. Well, Mr. Chairman, should we read his testimony to you, I think you will see he laid the foundation for that.

Mr. KENNEDY. Perhaps I ought to state to the chairman that Mr. Foster did call for his correspondence in the subpoena of said witness touching his resignation, and the witness has said in his cross-examination that he did not keep the letter or letters received by him from the Department.

Mr. FOSTER. He also said that he had made search for them before he came and was not able to find them.

Mr. KENNEDY. That is right. I had entered on the record a consent from La Abra Company that copies from the State Department might be offered in evidence, subject, of course, to objections against their admissibility. Now, as the witness is here and going away, I ask you, Mr. Chairman, to let him make a brief statement of the circumstances under which his resignation was sent in.

The CHAIRMAN. If you choose to take that course, Mr. Kennedy, of course it is all right, but I will feel bound not to let these letters go in the record unless they are produced and the witness has an opportunity to explain them.

By Mr. KENNEDY:

Q. Mr. Sisson, make a brief statement of the circumstances attending your resignation.—A. Well, I left Mazatlan for home here. I left without a leave of absence. I had been intending to resign and quit for quite a while. I was sick at the time; that is, there was something growing on my eye; I was getting blind. I came home here and went to Dr. Agnew, in New York. He wrote to the State Department and stated the difficulty, that I would have to have an operation performed, and asked a leave of absence for me for thirty days, and they granted it.

Q. After you were in this country?—A. After I was here.

Q. And without a leave of absence?—A. Yes; and they granted that after the operation was performed. In about two weeks, when I could go out, I came on here.

Q. To Washington?—A. To Washington. I was up to the State Department; everything appeared to be all straight. I saw Mr. Hunter; never a word said about it. I told him, if I recollect aright, that I was going home the next night or the next morning.

Q. Home?—A. To New York. This was along about the middle of the afternoon, I should judge; and in the evening about 9 o'clock, I should say, I found a dispatch there, or letter, addressed to me, stating that my resignation would be accepted. That is all. I never heard anything said about anything being wrong officially, and invite all the search that can be made in regard to that.

Q. During the eight or nine years of your consulate, let me ask whether you ever had any difficulty of any sort with the Department of State or any of your superior officers in regard to your accounts?—A. Not any, sir.

Q. Or anything touching your official conduct?—A. Not anything, sir; and in regard to that, I can state a little more if you want to hear it.

Mr. KENNEDY. No; I think that is sufficient.

Mr. FOSTER. Mr. Chairman, I suppose that we can not go into this matter by way of cross-examination just now. I desire to give the witness full opportunity to protect himself. Mr. Kennedy has substantially stated what he has testified in regard to his correspondence, that he received it. He has named the dates of letters. He does not remember the dates accurately but fixed them probably correct; that he has searched for papers but is not able to find them. I propose to make application for the correspondence in regard to the resignation of Mr. Sisson and the report upon which the request for his resignation was based. And I would state in this connection that I think it is entirely pertinent in this investigation that we should know the circumstances under which the consul who took the deposition in this case—took all the depositions at Mazatlan, of which he says there are twenty or twenty-five, and who had relations with General Adams, the representative of this company—that it is pertinent to this investigation to know the circumstances under which this consul retired from office and the reasons therefor.

Mr. KENNEDY. I think it is, Mr. Chairman, if those reasons touch the character of the witness for truth and veracity and are connected with this deposition.

Mr. FOSTER. There is something involved besides the consul's reputation for truth and veracity. From the examination that has occurred to-day there is plainly a question as to the manner in which he discharged his duty as a representative of the Government of the United States, and that we want to look into.

The CHAIRMAN. At all events, gentlemen, I think it is my duty to grant the application, and I will make it to the State Department. I supposed as this examination was going on you had copies of all these papers here and could submit them to the witness, but Mr. Sisson must have a full opportunity to see those papers and hear them read.

Mr. FOSTER. For that reason I present it now before we close the examination.

Mr. KENNEDY. May I suggest, Mr. Chairman, so that the witness may not be detained here very long, the Department of State be requested to answer as soon as possible.

Mr. FOSTER. The counsel for Mexico request the committee to ask the Department of State to send to the committee copies of all the correspondence relating to the request of the Department for the resignation of Isaac Sisson as consul at Mazatlan, Mexico, and of the report upon which the request for his resignation is based.

Mr. KENNEDY. Will you let me ask the witness one question? I would like to ask the witness to state whether when he received the request to resign his position and sent in his resignation his attention was invited to any report or to any charge that had been made against him. I would like to get that out of him now.

The CHAIRMAN. He can state that.

The WITNESS. No; my attention was not called to any charge or report made against me.

By Mr. LINES:

Q. Mr. Chairman, the witness has corrected himself somewhat as to dates. I want to ask when he first met Mr. Exall?—A. Well, it was after—come to think about it, I think it was on my second return there.

Q. In 1868?—A. Yes; soon after I arrived—no it must have been 1870, I think; 1869 or 1870.

Mr. LINES. I was trying to help you out.

By the CHAIRMAN:

Q. It was the time when Exall was returning from that country?—
A. I think it was.

The subcommittee adjourned until to-morrow, Friday, February 15,
at 10 a. m.

THE SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 15, 1889.

The committee met pursuant to adjournment. Present: Senator Morgan, chairman; Hon. John W. Foster and Mr. Robert B. Lines, of counsel for the Government of Mexico, and Mr. Crammond Kennedy, of counsel for La Abra Silver Mining Company.

TESTIMONY OF DAVID J. GARTH—Recalled.

Mr. KENNEDY. Senator McDonald was to be here this morning to continue his examination of Mr. Garth, but he has not yet arrived.

The CHAIRMAN. What was the last question put to Mr. Garth?

Mr. KENNEDY. I can state the exact point in dispute.

Mr. FOSTER. If it would be any convenience to counsel, and in order not to waste time, I can examine Mr. Garth as to the letter-book, which I could take up and suspend when the Senator comes in.

The CHAIRMAN. Very well; go on.

Mr. FOSTER. I will suspend my examination when the Senator comes in.

Q. Mr. Garth, Mr. McDonald asked you to examine the letter-book of the company at the mines, and he especially directed your attention to the letters which were pasted in the book. You identified, as I recall your testimony, all the letters of De Lagnel addressed to you that were pasted in the book; that is, you recognized them as letters you had received from him?—A. I don't remember particularly about it.

Q. Now I want to ask you—

Mr. KENNEDY. Might I suggest that, as we have Mr. Garth's testimony printed here, it would obviate any doubt if you would just take the book.

The WITNESS. Probably that would be better.

Mr. FOSTER. Well, I have an extra copy here, so that you can have one for your own use.

The WITNESS. If you will just name the page probably it will save time.

Mr. FOSTER. Just look on page 269 of that book. You will see a letter printed there from Tayoltita, July 6.

Mr. KENNEDY. No; I did not mean that, Mr. Foster. I wanted you to invite the attention of the witness to his testimony in regard to the identification of those letters. This is the letter itself that you refer to now.

Mr. FOSTER. I stated that as a matter of fact simply to refresh his memory.

The CHAIRMAN. There is no objection to it. It is simply a request of Mr. Kennedy that you shall make your question a little more to suit him.

Mr. FOSTER. I will do it.

The CHAIRMAN. I wish you would just proceed with your examination. I do not want the record lumbered up. Go right on and examine him your own way, and if there is a question made as to the legality of a question I will pass upon it.

By Mr. FOSTER :

Q. That printed copy is found in the letter-book, page 87, if you desire to look at it. What I want you to do is to look over that letter, if you have not yet read it, are not familiar with it, and say whether you can recall anything of that letter which will enable you to say whether you received it from De Lagnel.—A. What page is it?

Q. In the letter-book it is page 87.

Mr. FOSTER. Mr. Chairman, the State Department has sent an answer to your request for papers in regard to Mr. Sisson, and you might go on with that.

The CHAIRMAN. Yes, we will do that.

Mr. FOSTER. In the meantime, Mr. Garth, I will refer to another letter on page 279.

The WITNESS. Dated the 7th of September?

Mr. FOSTER. Yes, September 7. Just go over those carefully and refresh your memory by examining and see if you remember to have received them.

TESTIMONY OF ISAAC SISSON—Examination resumed.

Mr. FOSTER. (Examining papers from the State Department.) The request is apparently complied with in the production of all the papers asked for except Mr. Sisson's reply to the letter of the Department asking for his resignation.

The CHAIRMAN. Well, we can go on with what we have got and ask him with reference to these. A copy of that letter can be furnished afterward.

Mr. FOSTER. I present now the letter of the Department of December 2, 1874. Shall I read it?

The CHAIRMAN. Yes.

Mr. KENNEDY. Mr. Chairman, of course this is all taken subject to objection, and I have the law here in regard to the method of impeaching witnesses, to which I would like by and by to draw the attention of the committee.

The CHAIRMAN. I understand that it is not offered to impeach the testimony of the witness directly, but it is offered to show the standing of the witness with the Department as a public officer.

Mr. KENNEDY. I should think, if it was anything, it would be impeaching evidence.

The CHAIRMAN (to Mr. Foster). Did I understand you to make the distinction yesterday?

Mr FOSTER. Yes.

The CHAIRMAN. Have I correctly stated it?

Mr. FOSTER. You have. My object is to show his standing as a public officer. He is there discharging duties as a public officer, under instructions from the Government.

The CHAIRMAN. Well, we will hear it and then decide whether or not it is to go into the record.

Mr. FOSTER (reading):

DEPARTMENT OF STATE,
Washington, December 2, 1874.

SIR: I have to acquaint you that for reasons satisfactory to the Department it is deemed necessary to make a change in the office of consul at Mazatlan.

It will accordingly not be advisable for you to return to your post with the intention of resuming the duties of your office.

Under these circumstances the Department will be pleased to receive your resignation.

I am, sir, your obedient servant,

HAMILTON FISH.

ISAAC SISSON, Esq.,
*Consul of the United States at Mazatlan,
now at Lithgow, Dutchess County, N. Y.*

ROYAL HOTEL,
FORTIETH STREET AND SIXTH AVENUE,
New York, December 4, 1874.

SIR: After eight years' residence in Mazatlan as consul of the United States of America, I have the honor to tender to you my resignation, at the same time thanking you from the bottom of my heart for the kind consideration you have extended to me during that period. Business causes my return to Mazatlan; any communication from the Department will be received at that place.

I have the honor to remain, your obedient servant,

ISAAC SISSON.

Hon. HAMILTON FISH,
Secretary of State, Washington, D. C.

No. —.]

DEPARTMENT OF STATE,
Washington, December 5, 1874.

SIR: Your communication of the 4th instant, tendering your resignation of the office of consul of the United States at Mazatlan, Mexico, has been received, and, in reply, I have to inform you that your resignation has been accepted.

I am, sir, your obedient servant,

HAMILTON FISH.

ISAAC SISSON, Esq.,
Hotel Royal, Fortieth Street and Sixth Avenue, New York.

[The chairman, after consideration, decided to admit the foregoing letters.]

TESTIMONY OF DAVID J. GARTH.—Examination resumed.

Hon. JOSEPH A. McDONALD appeared as one of the counsel for La Abra Silver Mining Company.

The CHAIRMAN. Mr. McDonald, in your absence Mr. Foster took up a different branch of Mr. Garth's examination in regard to some letters of Exall. Do you propose to proceed with that now, Mr. Foster?

Mr. FOSTER. I think we had better let the Senator go on. I had hardly begun it.

The CHAIRMAN. You will proceed, Mr. McDonald, with your questions.

Mr. McDONALD. The questions which I have asked, upon what we claim was a cross-examination, and which were not passed upon by the subcommittee at the time of adjournment, are found on page 222 of the printed testimony, and embraced simply these points: I desired to have Mr. Garth state whether the statements which Mr. Exall had sworn to in his deposition, as to the causes that had compelled the abandonment of the mines and his return to New York, and the circumstances as he detailed them there, were the same in substance that he

had stated to Mr. Garth when he arrived in New York; and my purpose in asking these questions was twofold; first, as supporting Mr. Exall by proof, if I could, that he had made statements elsewhere out of court, as we call it, that corresponded with the testimony that he had given in court, or in his deposition. As I regard the testimony submitted by the counsel for Mexico as tending to impeach Mr. Exall, I therefore claim the right to sustain him.

And, then, as a second reason—perhaps a more important one, although I put it second—to show that Mr. Garth, so far as he represented La Abra Mining Company, and his associates, who acted in connection with him in regard to that matter, acted in good faith in going no farther in endeavoring to secure or operate their property after the representations made to them by this last agent of theirs, and that the abandonment was on account of the agent's representations and their belief in their truth.

The CHAIRMAN. Now, just read the question you propose to put to him.

Mr. McDONALD. Well, the question is this:

Mr. McDONALD. Now, I want to read these two questions and answers (Mr. McDonald read as follows):

Question No. 6. Why did said company cease its work and operations at said mines? State the reason, if you know.—A. Because I and the men under my superintendence working at the said mines were compelled to quit and to abandon the company's mining operations and property; because the interference, annoyance, and molestation we received during the progress of the work rendered success in it impossible and rendered a continuance of the work dangerous to persons and property, and intolerable, if not absolutely impossible.

Question No. 7. State in what the annoyance, molestation, and interference consisted, and from whom they came, and when they occurred, and how you were compelled to abandon your said work and the mines of said company; state fully.—A. The feeling and prejudice of the authorities, both military and civil, and of both the local and national authorities, at Tayoltita, and in the States of Durango and Sinaloa, were very inimical to us. It was currently reported by the Mexican authorities and citizens, and we were accused of meanly coming there for the purpose of purloining the silver and gold of Mexico with which to enrich the United States, and finally of stealing the States of Durango and Sinaloa from Mexico by annexation of the same to the United States; and this feeling and prejudice soon took an active hostile form, and our lives were threatened by both the citizens and the troops of the legitimate Government of Mexico, under President Juarez, its present chief magistrate. Those threats were frequently made, and we were in constant fear of our lives; and in pursuance of these threats one of the employes working for said company was actually killed while coming up from Mazatlan with a train of mules for said company, and we were finally driven off and compelled to abandon our mining operations by said authorities. The civil officers of the legitimate Government of Mexico, under President Juarez, also harassed and annoyed us, and interfered with the continuing of the mining operations of said company.

I was arrested by the order of the local magistrate or judge of Tayoltita, whose official title, as I understood, was "juez," and thrust into prison and sentenced by him to a fine of \$50, and imprisonment for two months. I had no trial, nor even an examination, except by him personally, and do not know for what I was arrested or imprisoned; but I here state positively that I had not committed any act, crime, or offense against the laws or people of Mexico, or any citizen or soldier of the same, nor against any of the authorities, local or national. I was released through the personal influence of a Mr. Granger, who had to promise payment of the said fine; no good reason ever having been given me for my arrest or release. I had frequently applied to the proper military and civil authorities of Mexico, both in Sinaloa and Durango, for redress and protection against the violence stated, but was rudely denied by both in every case, and could get neither; and these threatened acts, and the acts of violence were encouraged and connived at by said authorities, if not actually instigated by them, which last I believe to be the fact also.

By reason of these facts it was very difficult to keep men there at work, and the prosecution of the work was greatly hindered and delayed, and it finally became utterly impossible to continue the mining operations of the company; and I was compelled, with my men, to give up the same entirely, and to abandon the mines and all the mining implements and property of the company, to save our lives. I can not

state dates and names with any degree of certainty; Mexican names are hard for me to remember. The Imperialist soldiers, and citizens sympathizing with their cause, also threatened and interfered with us, for the reason, as they stated, that we were in sympathy with the legitimate Government of Mexico under President Juarez; said interference occurred at various times during the whole progress of the work while I was superintendent, and we were finally compelled to abandon the company's mines and property about March 20, 1868.

The military authorities of the Liberal Government of Mexico, or those acting in that capacity, seized upon our mule trains on the road from Mazatlan to our mines in the State of Durango, loaded down with provisions and stores for the use of the employees of said company, and they, the military, appropriated them to their own use, upon the plea that they were not provided for, and must have them as a military necessity. Large numbers of our mules and thousands of dollars' worth of our stores and provisions were captured in this way by the said military during the progress of the war there.

And finding it little or no better at the close of the hostilities, indeed it was even worse in the mines, for then they seemed to turn their whole attention to what they called a purpose on our part to annex Durango to the United States. And it was in vain that we protested that we had no such intention. The report had become general, and we were so harassed that it was impossible to continue our work with safety, as I have before stated. The military under Maximilian frequently captured our mules and stores in the same way and shamefully abused our men who were conducting the trains. They assigned as a reason for so doing that we, the said company and its employees, were republicans, and hostile to the interests of their so-called Imperial Government, which was true.

And so, between the two fires, we had no protection, neither of the contending parties respecting our rights under the law, but both of them robbing us. Large quantities of silver ore was taken or stolen from our mines after we had taken it out, and such were the threats against us that we did not dare to go out and defend it, as we would have been in great danger of losing our lives by so doing. The ores so taken were the very richest, and those containing the largest amount of silver. The captures or robberies of our mules and stores, of which I have spoken, occurred at various times during the latter part of 1866 and the early part of 1867; that is, the most of them occurred during the times stated and principally by the liberal authorities.

Now, I ask the question whether that, in substance, is what Mr. Exall reported to him and to his associates when he came to New York after leaving the mines?

The CHAIRMAN. You can ask the witness to state what Exall reported to him on coming back from the mines, and see how far his memory will coincide with the statements you read or any other statements.

Mr. McDONALD. Well, my question is a little more direct than that, Mr. Chairman, and made so to meet the twofold purpose that I have stated. The rule, I know—

The CHAIRMAN. The purpose is right, Senator; I have no doubt your purpose is right.

Mr. McDONALD. The rule, I know, is not always laid down in the same way in different States. Now, in my own State, where the purpose of the testimony is to support a witness or to contradict a witness as far as may be proved that he has made out of court statements that do not correspond with statements that he has testified to in court, it is competent to quote the statements made in court to the witness and ask him if that is what was said, in substance, by the party who is subject to impeachment.

The CHAIRMAN. Well.

Mr. McDONALD. And that was the rule that I was following here. You know you are very likely to follow the rules of your own courts when you are dealing with questions of evidence of that kind. Then the rule is otherwise stated and viewed in other States that the form that the chairman has suggested is the proper one, of asking, after stating fully what the witness has testified to—of asking the witness on the stand to state what the witness had said to him—so as to compare the two statements in that way.

The CHAIRMAN. That is what I propose to do. What is the form of the question that you propose to put?

Mr. McDONALD. My question is whether that is substantially what Exall stated to him and his associates when he returned to New York after leaving the mines in the spring of 1868.

By the CHAIRMAN:

Q. What is your answer?—A. That is substantially so.

Q. Now, Mr. Garth, before we go any further, what is substantially the statement made by Mr. Exall out of your memory, without reference to any book at all?—A. Well, he came back and stated—

Q. State it fully now.—A. He came back and stated that he had left Mexico because it was impossible to carry on the mines and the business there safely; that their life and property, on account of the interference of the authorities—and because, furthermore, that he had been imprisoned there—that he did not consider his life safe, and that he left the property and returned home. That was the—

Q. That is exactly what you state about that, is it?—A. Sir?

Q. Is that all he stated to you?—A. There is more of it, but—

Q. Well, your recollection I want to get.—A. Well, that is my recollection of it.

Q. Is that as far as your recollection goes?—A. That is, in substance, I think.

Q. That is as far as your recollection goes?—A. Yes; that is the purport.

The CHAIRMAN. Well, now, Senator, that we have got him down, we will proceed to another branch of the examination.

Mr. McDONALD. That is all I want to ask him.

The CHAIRMAN. Are you through with the witness, Mr. Foster?

Mr. FOSTER. I want to proceed. Thus far I have had no opportunity to cross-examine him.

Q. Now turn to page 269; you will notice in that letter, Mr. Garth, that Colonel de Lagnel speaks of his ill-health, some details in reference to it.

Mr. McDONALD. Which letter?

Mr. LINES. The last letter?

Mr. FOSTER. I will say that before you came in, Mr. McDonald, the witness's attention was directed to the fact that you asked him to identify the letters of De Lagnel that were pasted in the book, and I stated that he did identify them as letters which he received. No questions were asked him as to letters not pasted in the book, but which appeared regularly.

Q. He gives details also about the progress in setting up the mill and machinery, the difficulty of the rainy season, and also refers to the fact that he has reduced the expenditures by cutting down the force nearly one-half, and also that he has changed the cash payments made them "in cash and goods, one part of the former and two of the latter," etc. What is your recollection now as to whether you received such a letter as that from Colonel De Lagnel?—A. Yes; I received it.

Q. Now turn to page 279, the letter of September 7.

Mr. McDONALD. There are two of that date.

Mr. FOSTER. Well, I am only asking him as to the letters that Colonel De Lagnel wrote to him, Mr. Garth. It is the one to Garth, September 7; the last one on the page. He refers there to inclosing a statement of General Bartholow's accounts, and he also goes into further detail in regard to the progress in settling up the machinery

and the amounts, and the difficulty of obtaining money. It appears it is in answer to a letter of yours, in which you wrote to him to try and borrow some money, as I infer from this letter. He also refers to the payments made on stock by Griffith, Hardy, and Bartholow, and refers to the Guadalupe Mining Company?

A. O, yes; I received it.

Q. Turn to page 292, the letter of December 15.

Mr. KENNEDY. Mr. Chairman, is the question whether the witness remembers receiving that letter?

The CHAIRMAN. Yes.

The WITNESS. I suppose it was received, sir; although I do not have any very distinct recollection of it. I have no doubt it was received. I have a conviction that it was.

By Mr. FOSTER:

Q. Mr. Garth, I want to direct your attention to the matter of the books and records of the company in New York; I think you have stated to the committee that Mr. Worthington had charge of the books?—A. Mr. Worthington was the secretary and naturally had charge of the books, and did have it, according to my recollection.

Q. But he had an office in connection with your office? I would like for you to explain a little more fully the relation of his office to your office.—A. Well, my office was a pretty good size, and off to the right hand he had a smaller room. Mr. Worthington was a bachelor and a man of considerable means, and he had securities, and he operated some in stocks, and bonds, etc., through our house; a particular friend of Mr. Harrison and Mr. Genter, and myself also; and he had this little office off to the right hand of my desk, where he kept his affairs, his books, etc., together with the little books or whatever books the La Abra Company had.

Q. Did that office lead out of or connect with your office?—A. There was a door, yes, between.

Q. Was the entrance from the street through your office?—A. Yes; through a passage running from New street down and into my back office; no entrance from that office into the street at all, as I know of.

Q. You stated, as I remember, that you moved out of that office in 1871 or 1872?—A. I don't remember exactly, sir, but it was somewhere about that. I don't remember the year; it was a long time ago.

Q. Well, this question was asked you; I read from page 188:

Q. Did you ever look in Worthington's little office that you spoke of?—A. Oh, yes; that was just a little place, cleaned out long ago.

Q. Years before?—A. Oh, yes; I moved out in 1871 or 1872.

A. Well, I think it was at that time my establishment was dissolved. Mr. Worthington—

Q. Wait a moment. You stated also—

After I quit the brokerage business I went into the tobacco business again, which was my old business, and after a year or two of interregnum Mr. Worthington moved away, I think to Detroit.

A. Well, I had forgotten about that; I think he moved away before, sir. About the time I quit in New York I think he went away.

Q. What do you mean by the time you quit in New York?—A. I think it was about in 1870 that my partnership dissolved and that Garth, Fisher & Harrison succeeded Harrison, Garth & Co., and when that business was wound up Mr. Fisher took the business and I quit, and after a while went back into my old tobacco business with my son.

Q. Now, you have stated—I want to get this as accurately as your recollection will enable you to fix that—you have stated that you moved out of your office in 1870 or 1871, and after an interregnum of a year or so, Mr. Worthington moved to Detroit. Do you want to correct that statement in any regard now?—A. Well, I want to correct it in this that I have no data and have not thought about the matter. I may be a year or two wrong about that; I don't recollect the time.

Q. But it is approximately correct?—A. Approximately somewhere. Mr. Worthington may have—in fact, I was inquiring subsequently about this, and I think he died in 1871; he had gone out and died. Since I was here, before I inquired of Mr. Saunders, a young man who knew him very well, about the time he died because I had lost recollection of it and I think he told me he died in 1871; maybe sometime in 1871 in Ohio or Michigan, in Ohio I think; at Chief-Justice Waite's house. I think that is about the time, but it must have been previous to this that this whole thing occurred.

Q. Now, in view of these facts and this data, have you any doubt of the existence of the books and records of La Abra Company in 1870?—A. I have not. I think they were there, what books they were. I think \$10 would have covered the lot.

Q. Then they were in existence in 1870?—A. I think so. I am pretty well satisfied they were. They were in existence during Mr. Worthington's regime there.

Q. Now, was there any inquiry made of you while you occupied that office for the books and papers?—A. Of La Abra Company?

Q. In 1869 or 1870 do you remember that any inquiry was made of you or any examination made of the books in your office?—A. I don't remember any inquiry made about the books at all until later—years afterwards.

Q. Do you know whether either Adams or Ely made any examination of the books or records in 1869 or 1870?—A. I think it possible, but I don't remember it as a fact.

Q. You have no recollection of their coming to your office to make examination?—A. I have no recollection of the fact. It may have taken place.

Q. Now, you have stated that you made a search five or six years ago?—A. Yes, or some time ago; I don't know exactly.

Q. Was there any inquiry made of you by any person for the books and records after you moved out of that office until this inquiry five or six years ago?—A. I recollect of none. It may have been more than that. I don't pretend to confine it down to that, because I don't remember about it, but I remember Mr. Ely making some inquiry about them, whether it was five or six or seven years ago, or less time than that.

Q. Well, approximately, five or six years ago?—A. It may be, but my memory is very poor about it, especially things of that sort, to which I attach no importance.

Q. Do you remember what Mr. Ely stated as the object for which he desired to examine the books at that time, five or six years ago, more or less?—A. I do not, sir; I don't remember.

Q. Mr. Baldwin, upon his examination, has stated that Mr. Ely spoke to him about an examination of the books. He fixed it 1883, as near as he can remember, which would conform somewhat to your recollection, and he says that Mr. Ely stated that he wanted to look at the books and papers with reference to a suit then pending against the company by the Bank of California. Does that refresh your recollection as to the

object of the inquiry, in any way?—A. Well, I don't know, sir; no, it does not. I don't remember about it; but that suit took place while I was living in Louisville. I recollect I was away from New York when that California suit came up.

Q. You have referred to a meeting of the directors after Exall's return. You mentioned the names, I think, of three of the trustees who were present—Collins, Worthington, and Gibbs.—A. I think so; there may have been—

Q. It appears from the articles of incorporation that there were seven trustees.—A. Yes.

Q. Can you mention any others now, after having an opportunity to reflect upon it since you were last before the committee?—A. I don't remember, sir. It was always desirable to have a quorum, a majority of the trustees in New York, because there was—

Q. Well, what I want to know is, whether you can remember the names of any others?—A. I don't remember.

Q. You do not?—A. No; I can not recollect.

Q. Can you now more accurately fix the time when that meeting was held?—A. I don't know; could not fix the time.

Q. What is your present recollection of the time?—A. It must have been soon after Mr. Exall came there; as soon as the people could be got together to talk the matter over.

Q. And what was the object of the meeting?—A. I suppose to talk with Mr. Exall and to see him, and whatever was necessary to be done.

Q. To take action on his report?—A. I presume so; to take action or non-action.

Q. Now, will you state what action was taken upon his report?—A. I don't know what formal action, but it was simply the thing was dropped. The matter was considered dead, and the thing simply stayed so.

Q. Mr. Ely was acting as the attorney of the company, was he not; I think you have so stated?—A. Britton & Ely were the attorneys of the company.

Q. Was either of them present at this meeting?—A. I think not, sir.

Q. Was any legal advice taken at that time?—A. I think not; not that I know.

Q. Was any communication made to the Government at Washington?—A. Not that I know of. The thing just fell dead.

Q. I desire first to read from your letter of July 10, addressed to Mr. Exall, in which—

Mr. KENNEDY. What page are you on?

Mr. FOSTER. Page 321.

Q. In which you say to him—

Don't run into debt or get into difficulty with the authorities, if there are any such things existing, but at same time be firm in maintaining your rights, and don't submit to imposition, except by force, and then make a legal and formal protest as a citizen of the United States and as an American company duly organized and prosecuting a legitimate business under the protection of the law, and our rights will be protected by our Government.

Now I direct your attention to an extract from your letter of August 10, 1867, page 322:

From the reports we get in the papers we find that Americans and all foreigners will not be protected in their persons and rights in that country, and that we may have to abandon our property there. If so, you must take all necessary and legal measures, by protest and otherwise, to secure our claim against the Government. Mr. Rice, no doubt, will be of essential service to you in any measure of this sort, and we would advise you to consult freely with him.

Q. Now, I desire to ask you whether Mr. Exall made any report upon his return to New York at that meeting of any protest that he had filed before any American authority at any place?—A. I don't recollect of any, sir. I don't recollect whether he made a verbal or whether he made—I don't think he made any written report.

Q. Yes, I am asking you not whether he made a verbal or written report, but whether he made any protest?—A. That he had filed any claim or made any protest or anything of that sort?

Q. Before any American authority or any other authority?—A. I don't recollect it, sir.

Q. Do you remember whether he reported to you that when he came from Mazatlan on his return to New York he met the American consul, Mr. Sisson, there?—A. I have no recollection of it.

Q. Did he report to you whether he called at the consulate at Mazatlan?—A. I don't recollect it, sir.

Q. Or made any statement or protest before Mr. Sisson?—A. I don't remember of any.

Q. I find the date of the organization of the company is fixed at November 18, 1865. That was after your visit to Mexico and after inspecting the mines?—A. I think so, sir.

Q. Soon after your return?—A. I think so.

Q. You stated that an assessment was made on the stockholders. Can you fix now the date of that assessment?—A. I can not.

Q. Or can you state anything further as to the amount of the assessment?—A. No, the people that subscribed, so far as I know, that were there in New York, were rich people, esteemed such, and I don't remember whether they paid by giving a check for the whole amount or part of the amount. I knew it was all good; would be paid in a day if needed.

Q. Well, as I understand your former statement, it was paid up in full?—A. Oh, there was no delinquency that I remember.

Q. But about how soon were all the collections made, all the money paid into the treasury?—A. I don't know, sir; as fast probably as they needed it, or as fast as these drafts were sent they were asked for their checks, I suppose; but Mr. Shackleford was the treasurer then, and I had another large business to attend to then. I was winding up my old concern of D. J. Garth & Co., that had been in existence for many years, and really did not pay a great deal of attention to it.

Q. I think you have stated in your testimony that there were no new stockholders taken in after the first organization; that the paper from which Judge Shellabarger read a list of stockholders before this committee and upon which he examined you, that that list represented all the stockholders and the stock of the company?—A. I do not know about that; I think likely it did; but I am not absolutely sure about that. It may not have had all the names upon it. I don't recollect them; in fact, a good many of them were in the West—

Q. You have made this statement. On page 152 it is recorded, "No stock was issued after Exall became superintendent?"—A. I do not think there was.

Q. That is your present recollection?—A. Yes; I do not think there was; I do not remember. There may have been, but I do not now recollect it. There might have been, but I do not know. I would not have probably known it if there was.

Q. In the annual report dated January 20, 1868, the amount of capital stock actually paid in is put down at \$157,000. I think I understood you to say that that included the \$22,000 which was paid to Hardy & Luce for La Abra mine?—A. I think so.

Q. That is La Abra mine proper?—A. I think so.

Q. You were examined in reference to the judgment obtained upon the suit of John H. Garth, representing the various loans that had been made to the company which was fixed at \$53,670.11. I think you stated that that did not include the draft of the Bank of California?—A. I do not think it did, sir.

Q. Senator Dolph asked you a question, about the close of the examination one day, as to whether that draft of \$5,000 represented all the claims then outstanding against the company, and he asked you to think about it and answer it the next day, and you answered it the next day, page 145 of the testimony, that that draft represented as far as you can recollect—

Mr. KENNEDY. The draft?

Mr. McDONALD. The debt to the Bank of California.

Mr. FOSTER. Well, the claim. It was a draft; represented all the claims outstanding as far as you could recollect; that you could recollect no other claim except that of the Bank of California.

The WITNESS. I desire to say in addition to that that there were some other unsettled claims for money advanced.

By Mr. FOSTER :

Q. Now, I would like for you— A. But what they were, how much, to what extent I do not know. I think there was perhaps some of Mr. Hearn came later on, and there was the amount also we paid to Exall when settlement was made with him. There may have been some others who had advanced money, perhaps Sweeney or somebody in Missouri. I think, perhaps, they had advanced some.

Q. Well, now, let us get that in detail as far as possible.—A. But as to the figures and as to the amounts it is impossible for me to state. I do not know. I have never done book-keeping for thirty years.

Q. Well, let us get your best recollection now.—A. Well, that is it.

Q. Well, can you fix with any degree of accuracy, with your best recollection of it, the amount of Hearn's claim, if he had one?—A. No; I do not know. It may have been \$1,500 or it may have been \$2,000 or it may have been less.

Q. Now, give me your best recollection as to the amount due to Mr. Sweeney.—A. I do not know; I have no recollection of it. My impression is that some of these men in Missouri had contributed something towards the payment of these drafts or paid something, and it had been done perhaps through Bartholow, as he was the banker in St. Louis and had the—

Q. Well, would not those drafts be reported to the company?—A. I do not know that they would.

Q. Would there be no record kept of a loan made to the company?—A. I do not know that there was any record kept; not to my knowledge.

Q. Was that the way in which you kept the records of the company?—A. I beg to state that I never touched the records.

Q. Well, the secretary, if he kept them?—A. Well, I do not know how he kept them; I am not responsible for that.

Q. I see that Worthington's name is one of those signed to this report, January, 1868.—A. Yes; he was the secretary.

Q. Well, would not he have knowledge of any of these outstanding claims?—A. I think likely he would have; as for myself I do not know; could not speak as to his knowledge.

Q. Now, the judgments represented by the John H. Garth suits were \$53,670, and the Bank of California's draft was \$5,000, which would be

\$58,670. The total amount, the existing debts of the company, are stated in this report not to exceed \$7,200. There is a difference between \$58,670 and \$72,000. Is it not likely that Mr. Worthington had embraced all these outstanding claims that you referred to in that amount of \$72,000?—A. I can not say, sir; I do not know.

Q. What is your best recollection as to whether that \$72,000 would represent all the outstanding claims at that date?—A. I have no—

Q. That is, \$58,670 is all you have on record or can get any record of? There is a difference of between \$58,670 and \$72,000, you see. Your best recollection of Mr. Hearn's advance, or whatever it was, was probably \$1,500 or \$2,000, and these others you do not know about. Now, state whether or not, according to your best recollection, it is probable that \$72,000 embraced all outstanding debts at that time.—A. I have no distinct knowledge of it; I could not say about it; it may be that. I recollect—but it is hardly worth while to state that—that this thing was based upon a gold basis, and some of these judgments were probably put on the currency basis. I do not know about that, though; I am no accountant, and do not know.

Q. Well, that would reduce the amount, then?—A. Well, I do not know about that.

Q. Well, let us get along a little further in detail about these debts. You paid Exall after this report was made, January, 1868?—A. Oh, yes; we paid Exall after he came back, you know.

By the CHAIRMAN:

Q. How much?—A. I do not remember the amount, sir.

Mr. FOSTER. On page 144 it is fixed at about \$2,000, to the best of his recollection; not more than that, he says.

The WITNESS. I do not know that it was more than that; \$2,500, probably; I do not remember.

By Mr. FOSTER:

Q. Now, aside from the claims you have referred to of Hearn and Sweeney, and whatever others may be outstanding, can you mention any other claims?—A. I do not recollect them, sir.

Q. Were there any claims for attorney and counsel fees at the time that Exall returned?—A. I do not remember.

Q. You have stated that the salaries agreed upon to Mr. Collins and yourself and Mr. Worthington were \$2,000, but that no money was ever paid?—A. None was ever paid.

Q. How long did you render service, you three officers named—actually any service—and would be presumed to be earning your salary of \$2,000?—A. From the time when I was elected treasurer, as long as the—

Q. Up to Exall's return and you had that meeting and everything was abandoned, how long was that?—A. Several years.

Q. Well, you can fix it pretty accurately. It was not many years; it was in 1866 when you became treasurer, was it not?—A. I think so; yes.

Q. And it was in 1868 when Exall returned. Then it was not more than two years' service, was it?—A. Well, not up to that time.

Q. Well, do you claim that you have been earning a salary since the meeting of the trustees when Exall made his report?—A. Well, I do not know that I have.

Q. Would you make a claim for salary after that date?—A. Well, I do not know that I should, sir.

Q. Then the salaries would represent two years of three officers at

\$2,000 each, if I understand your testimony correctly? I am trying to get at the obligation of the company at that time.—A. Yes.

Q. Now, was there anything agreed upon to be paid for office rent?—A. Well, I do not remember any contract or anything of that sort.

Q. The only office that the company ever had was that which was occupied in Worthington's office, I suppose?—A. No; they had a place at Robinson, Garth & Co.'s, quite a large room, from the very beginning; I think they had that there.

Q. Did they have the sign of the company out there?—A. Oh, I do not think they had any sign of the company at all.

Q. It was an office occupied by another firm, was it not?—A. Well, it was a big upstairs room there, 20 or 30 feet square.

Q. Dedicated especially to that business and no other?—A. There was no other business transacted in it.

Q. Well, what would be the rent of a room of that kind?—A. Oh, I do not know.

Q. Or what rate was charged for the room to the company?—A. I do not remember.

By the CHAIRMAN:

Q. Was any rate charged?—A. I do not know; nobody got any money, I know.

Q. The property belonged to you?—A. No; it was another firm.

Q. Do you recollect whether any account was ever rendered to that company for the rent of that room?—A. I do not know of any.

Q. Well, don't you know there was?—A. I never saw any.

Q. You think there was not?—A. I think there was not. I know there was nothing ever paid anyway. It was merely an informal thing there among a few friends.

By Mr. FOSTER:

Q. Now, Mr. Garth, I want to ask you whether there were any court legal expenses that you were aware of?—A. What do you mean?

Q. I use the term court legal expenses.

By the CHAIRMAN:

Q. Costs of suits, witness fees.—A. When? There must have been some.

By Mr. FOSTER:

Q. At the time that Exall returned and the meeting of the trustees was held that you described, that is the time I am talking about?—A. I don't remember anything about that, sir.

Mr. McDONALD. You used the term "court legal expenses" as if you were quoting.

Mr. FOSTER. I am.

Mr. McDONALD. What did you quote from?

Mr. FOSTER. I quote from Mr. Collins's deposition; that is, I adopt the phrase there used.

Mr. McDONALD. Well, you ought to state enough to refresh his memory.

By Mr. FOSTER:

Q. Were there any sales of stock after this report of January 20, 1868?—A. By the company do you mean?

Q. By the company?—A. I do not know. I know of none.

Q. I think you stated that there was no stock issued after 1868?—A. Not that I know of.

Q. Well, the capital stock of the company was not increased after Exall became superintendent. You state no stock issued?—**A.** I do not think there was. I do not know of my own knowledge.

By Mr. LINES:

Q. You were treasurer, Mr. Garth; could any stock have been issued without your knowledge?—**A.** Well, I do not know; I know of none.

By the CHAIRMAN:

Q. Well, you know whether stock could have been issued without your knowledge?—**A.** Oh, I suppose it could have been issued by the president and secretary. I do not think the treasurer has anything to do with it.

Q. You did not sign any certificates and never kept a record of them?—**A.** I do not know. I do not think I ever did in my life.

Q. Well, you kept no record of it?—**A.** I think the president and secretary did. I do not think I ever made an entry in the books in my life.

By Mr. LINES:

Q. Did you ever sign any certificates of stock?—**A.** I do not think I did. I do not remember. I do not think that came under me. Unfortunately I happened to be there and had to pay when the drafts were drawn upon me or it had to go to protest, sometimes about ten minutes before 3 o'clock, without notice.

By Mr. FOSTER:

Q. Mr. Garth, you have stated, to the best of your recollection, all the debts, all the obligations of the company, up to the time that this meeting was held, when Mr. Exall made his report, have you?—**A.** I think so, sir.

Q. I find that on the 20th of January, 1877, a report was filed, signed by Mr. Baldwin as president, and yourself, D. J. Garth, as one of the trustees. That report—

Mr. KENNEDY. What page are you on?

Mr. FOSTER. Well, it is not in print. We submitted it, but it appears in 118 of document 274. It is before the committee, but is not yet printed, but I refer to that for convenience.

Q. You state in that report that the amount of said capital stock actually paid in is \$235,000. I want to give you an opportunity, Mr. Garth, to explain that discrepancy if you are able to do so, and you can now proceed with your explanation.—**A.** The capital is stated at—

Q. Two hundred and thirty-five thousand dollars.

By the CHAIRMAN:

Q. There it is right before you, Mr. Garth; right on that page there. Now, answer the question. The question is for you to explain that discrepancy.

Mr. McDONALD. What is the discrepancy you ask him to explain?

The CHAIRMAN. Mr. Foster, please state the discrepancy you want him to explain.

Mr. FOSTER. The discrepancy between the report of January 20, 1868, and this report to which I have now directed his attention in respect to the capital stock actually paid in.

Mr. McDONALD. Where are the two reports?

Mr. FOSTER. He has the report before him there, on the top of that same page.

Mr. KENNEDY. And where is the other?

Mr. FOSTER. The other is at the bottom of page 118.

Mr. KENNEDY. Well, as the witness's attention has not been called to this, he had better have an opportunity to examine.

Mr. FOSTER. I have just gone over the report of 1868 with him, and asked him questions respecting it.

Mr. McDONALD. Well, you asked him some questions, but you have not said what it was you asked them from.

Mr. KENNEDY. No; and we never knew until this moment what it was.

The WITNESS (after examining reports). I do not remember, sir; the fact is, probably, they had left me out of—what is this; 1867?

Mr. FOSTER. The last one is 1877.

The WITNESS. What is the first one?

Mr. FOSTER. Eighteen hundred and sixty-eight; nine years before.

The WITNESS. I do not remember. It might have been. Could not it have been—

By the CHAIRMAN:

Q. Well, state your recollection about it.

By Mr. FOSTER:

Q. We want your recollection about it.—A. I have no recollection about it. I do not know anything about it. Probably this report was handed to me.

Q. We want your recollection, I said; no surmises.—A. Well, I have not thought about the matter, and I do not know anything about it.

Q. From your best recollection you can not reconcile the discrepancy?—A. I have no recollection about it.

Mr. McDONALD. That is your argument from what he states.

Mr. FOSTER. I asked him to state—

Mr. McDONALD. I know; but you argue it out.

By Mr. FOSTER:

Q. I desire now to direct your attention first to the report of January 20, 1868, in which the amount of existing debts of the company is fixed at not to exceed \$72,000; and then direct your attention to the report of January 20, 1877, in which the existing debts of said company are stated to amount to \$154,530.06, and ask you if you are able, from your best recollection, to reconcile the discrepancy between those two reports?—A. I do not remember anything about it now, sir.

Q. You are not able to testify as to whether the debts were increased or how they were increased?—A. Yes; I do not have any recollection about it.

Q. What was your practice in regard to signing these reports? Did you take them on faith, or did you make any investigation?—A. Well, when these reports, if I signed them—they were brought to me and I just simply signed them, taking it for granted they were correct. I did not meddle with the accounts.

Q. Have you any recollection of ever having signed a report between the years 1868 and 1877?—A. I have no recollection about any fact.

Q. Do you know whether any report was filed between 1868 and 1877?—A. I do not know.

Q. In your testimony you have referred to the fact that the company owned 550 shares in the Guadalupe mine?—A. I do not remember how much. I knew they owned an interest in that Guadalupe mine, it may have been 550 shares or 550 feet or whatever it was, I do not remember now.

Q. Do you know how many assessments were paid upon that stock?—A. I do not.

Q: Let me refer you to page 288, if you please.
The CHAIRMAN. Which book, Mr. Foster?

By Mr. FOSTER:

Q. That book of testimony, that large book there; it is a letter of Mr. De Lagnel, addressed to you, dated November 17, and which you have recognized as one of the letters received by you?—A. Well.

Q. You will find, along down toward the bottom of the page, at the beginning of the paragraph speaking of this Gaudaloupe Company—

At the present time I do not think the amount of the assessment could be obtained for the stock in the S. F. market, though I do not know, but hope to shortly, therefore the choice seems to be to sacrifice what has cost \$9,000 for a few hundreds, or to continue sinking money against your inclination.

A. What is the question?

Q. The question is whether or not you had paid as much as \$9,000 on that stock at that time?—A. I do not remember, sir; I know we paid a number of drafts. They came in and we paid them off, and I got mighty sick of it.

Q. You stated that that mine, or your interest in that mine, was bought from Castillo del Valle at the same time you bought the other mines from him.—A. That came with the—

Q. And that the \$50,000 that was paid to Castillo del Valle included the cost price of the Guadalupe stock, whatever it was, didn't it?—A. Well, that came in with the others. I do not remember whether—

Q. Well, the payment of that interest was included in the \$50,000, was it not?—A. I think so; that is my view.

Q. Now the expenditures of La Abra Company, would they embrace these assessments, this \$9,000 that De Lagnel speaks about, or whatever amount are the assessments of the Guadalupe Company?—A. I don't know. I—

Q. Would not they be included in the expenditures for the company; were they not carried along as a part of the expenditures of La Abra Company?—A. I don't remember, sir. I don't know.

Q. Well, you were treasurer of the company. Don't you know something about what was done with the accounts of the company?—A. No, sir; I do not know what was done. I know very little about it in fact.

Q. Now, when the claim was made against Mexico, this payment of \$50,000 to Castillo del Valle was included, was it not, in making the estimate?—A. I suppose so, sir; I suppose so.

Q. Well, was not the assessment that had been made on the Guadalupe stock also included?—A. It is possible; I do not know.

Q. Well, what is your best recollection?—A. Well, I have no recollection of it, because I did not recollect anything about the statement.

Q. Well, the Guadalupe Company was a separate and distinct company from La Abra Silver Mining Company, was it not, and you only held stock in that company?—A. I suppose that was so, in fact, because, as I remember, the Guadalupe Company was a San Francisco organization.

Q. But the mine, as I understand you to say in your former testimony, was located in the Tayoltita district, near by?—A. Yes; I never saw it.

Q. It was a separate and distinct mine and company?—A. I do not know as to company. It was a separate and distinct mine from those others.

Q. Did Exall report now when he returned to New York that the

Guadalupe Company had also been driven out of the country?—A. I do not remember.

Q. He said nothing to you about evacuating that mine?—A. I do not think he said anything about the Guadalupe Company. The fact is I had forgotten all about it.

Q. Did your company know at the time it filed its claim against Mexico that the Guadalupe Company had filed its claim against Mexico?—A. I never heard it until this day, until you said it just now, that I know of.

Q. You have referred to the specimen of ore taken out of the mines when you visited Tayoltita. Who brought those specimens of ore away from the mines? Who carried them down to the hacienda or where you were stopping?—A. Well, I think that was done by the servants, or mozos. I think they had little bags, something like a corn-sack, and I think the servants took them down. We were all on foot.

Q. Where were the ores put when they were brought down?—A. Well, I think they were put in the hacienda in the room where we slept.

Q. I do not want you to state what you think. Do you know where they were put?—A. I do not. I suppose they were put—

Q. Well, you lost sight of them after they were brought down, didn't you?—A. Yes; they were brought down and put in our room where we slept.

By the CHAIRMAN:

Q. Do you say now they were or were not put in your room?—A. Well, my recollection of it is that these specimens were brought down and put in our room. I did not keep any watch of them after that.

By Mr. FOSTER:

Q. Well, do you know now that they were put in that room and not some other room of the hacienda?—A. I think they were put in the room where we slept.

Q. How much of your time was spent in that room?—A. Oh, we slept there and that is about all.

Q. Do you know how long after they were taken out of the mine they were reduced to silver?—A. No; I do not.

Q. You have stated that they were reduced?—A. Oh, yes; I took some of them to New York, I stated; I took samples probably of all to New York in my trunk; I had forgotten that until I read Mr. De Lagnel's testimony.

Q. Then you notice that De Lagnel states that you showed him a specimen from La Luz mine?—A. Yes; probably.

Q. Which assayed \$1,300, and which he confirms by his assay of it?—A. Yes.

Q. Where did you get that specimen?—A. We got it from what was told me was called La Luz mine.

Q. Did you take that specimen out yourself?—A. Well, I did not with my own hands, but I was there and saw them; the mozos or miners or servants got it.

Q. How large a piece was it?—A. Oh, there were several pieces, chunks as big as your fist.

Q. A number of pieces?—A. Yes; several pieces.

Q. Now, where did these pieces go after you saw them taken out of the mine?—A. Well, they were put in a bag something like a corn-sack, carried down and put in the room where Bartholow and I were.

Q. How long did they remain in that room before you left?—A. I

think we were there probably about two weeks at the hacienda and the mine, and we went up there pretty soon after we got there, just how many days or hours I do not remember.

Q. And those specimens laid in — ?—A. They were put in these sacks and put in our room according to my recollection.

Q. And it was one of those specimens you took to New York and showed to Mr. De Lagnel ?—A. Yes; but I had four or five specimens as big as my fist, perhaps.

Q. That you took to New York ?—A. Yes.

Q. I want to refresh your memory by stating that one of the Mexican miners who has been before the committee has stated that there was a rich vein of ore struck in La Luz mine before Castillo del Valle's sale to you. Did you hear anything about that while you were there on your visit; a rich pocket, or small vein of ore from which he took out, I think it is, 60 or 70 cargas. I will give you the exact amount. There was "a little vein, about 50 or 60 cargas was worked, which yielded good metal." A carga is a mule load ?—A. Yes.

Q. Did you hear anything about that ?—A. No; it was represented to me as a rich mine.

Q. No; I am asking you about that particular incident. Did you hear anything of it at that time ?—A. No, sir; I did not. I don't have any recollection of it at all.

Q. You stated that you had no knowledge of mining ?—A. No.

Q. That General Bartholow had no knowledge ?—A. Not that I know of. I don't think he had.

Q. I want to ask you whether you had any expert in mining representing you at the time the purchase of the mine was made ?—A. Well, we had a man by the name of Griffith who went out from New York with us. He claimed to be—I don't know whether an expert or not, but he had been in California many years, and in Virginia City; was familiar with these things, and said he knew good ore, and he was going out with a view of taking an interest in the mine.

Q. How did you make his acquaintance; through Hardy ?—A. I don't know now. I think likely, but I don't remember now.

Q. He and Hardy went out with you together, didn't they ?—A. Yes.

Q. There was a man named Weidner, that you spoke of ?—A. Yes; I met him in Tayoltita. He lived up in that section. He was a German.

The CHAIRMAN. Let me interrupt the examination a moment. I want to ask a question.

Q. When did you conclude the purchase and payment for these mines that you bought from Castillo del Valle; before you left Mexico, or after you returned to New York ?—A. Conditionally, yes; before we left Mexico.

Q. I mean, when was it concluded absolutely ?—A. I think after we returned.

Q. And after you brought these specimens back ?—A. Yes.

Q. Before you left Mexico, though, it was concluded ?—A. I think so.

Q. At \$50,000 ?—A. I think so.

Q. Was Castillo del Valle or any of his agents with you at any time when the man selected these specimens from the mines ?—A. I don't think Castillo del Valle was.

Q. Well, any of his agents or representatives ?—A. Some of the miners, but I don't know about any agents.

Q. And he was not there himself ?—A. I don't think he was. He was rather fleshy, and did not speak English, and did not seem inclined to walk about much.

Q. Did you keep those bags containing the specimens taken from these mines under your own personal observation and supervision during the two weeks that you remained?—A. I don't know. I don't think anybody changed them or anything.

Q. You are innocent on that subject?—A. I am innocent on that subject.

By Mr. FOSTER:

Q. I think you have testified that you knew Colonel de Lagnel had no mining knowledge?—A. He so stated to me, and I know he was a truthful man and would not lie.

Q. And you know that Exall did not have any when you employed him?—A. I don't think so.

Mr. KENNEDY. All this is going over what we did go over very thoroughly and carefully.

Mr. LINES. A long time ago.

Mr. KENNEDY. It is all printed.

The CHAIRMAN. Well, it has all been done so often that we can not stop it now.

By Mr. FOSTER:

Q. I want to ask Mr. Garth this question, whether any officer or any superintendent of the mines at any time during its active operations and before you finally resolved to abandon them at this meeting of the trustees, whether there was any officer or superintendent who had any knowledge of mining; any person who conducted the affairs as an officer of the company or superintendent who had any knowledge of mining. If there is such a person, give us his name.—A. I don't know, other than Mr. de Lagnel and Mr. Bartholow—(pausing).

Q. Well?—A. I don't know.

Q. I have called your attention to the fact that you have stated that you have no knowledge of mining. I want you to state any officer who had any control of the management of the business of this company who had any knowledge of mining. If so, I want you to state his name.—A. I don't know of any.

By Mr. LINES:

Q. Or of reduction?—A. I don't know.

By the CHAIRMAN:

Q. Then I understand you that this company during its operations in Mexico was entirely dependent upon such assistance in regard to mining and in regard to the reduction of ores as the country would afford them?—A. That is so.

Q. You did not employ any agents in California or anywhere to go down there to superintend your mines who had actually practical, experimental, and technical knowledge of mining or the reduction of ores?—A. I did not. I supposed these men would get them there.

Mr. KENNEDY. Now, Mr. Chairman, I would like to say that all that is really impeaching the evidence of a witness for the Mexican Government—I mean Mr. Elder—who claimed to be an expert and to have been in the employment of this company at Tayoltita.

Mr. FOSTER. I do not know whether the statement is pertinent now or not, but my question was whether any officer or superintendent who had the control or management of the affairs of that company. That was the extent of my question.

Mr. McDONALD. I do not see that that throws any particular light on

the question. It has already been stated who had charge there from the time the party first took control, and all they knew about it.

Mr. FOSTER. Well, I am conducting a cross-examination. If the chairman thinks I am going over the ground too fully that has already been gone over—

Mr. KENNEDY. I wanted to invite your attention to the fact that Mr. Lines has interjected into the question also the word "reduction."

Mr. FOSTER. Well, that applied to officers and superintendents.

Mr. KENNEDY. Pardon me a moment. It seemed to me that the objection to impeaching Elder's testimony, a witness subpoenaed by the Mexican Government, was one that I ought in duty to make. I have no personal feeling about it.

The CHAIRMAN. The testimony in the case of course must have its weight and value whether it is to impeach, or whatever its nature may be. The question is all right and the answer is all right. The evidence is all right whatever it is.

Mr. KENNEDY. But there is a rule that you can not impeach your own witness.

The CHAIRMAN. Oh, there is no effort to impeach anybody.

By Mr. FOSTER :

Q. I want to ask you what Castillo del Valle was doing at the mines while you were there. I recall this statement of yours on page 193 :

Q. Was it being actually worked—

That is, the mine—

when you were there?—A. I think not. I think Castillo was not at work.

Q. Was any one of the four being worked when you were there?—A. I think he had some men doing something in the La Luz mine.

I would like for you to explain a little more in detail what operations of Castillo del Valle you saw going on during your visit.—A. I think that is as clear as I can state it. I don't think he was at work generally in the mines; I don't think he was.

By the CHAIRMAN :

Q. Did he reside at the hacienda?—A. Yes.

Q. Was his family there?—A. Well, I don't know whether his wife was there or not. He had a wife and children there, but whether he was legitimately married or not I don't know.

By Mr. FOSTER :

Q. Did you, during your visit to the mines, learn anything from Castillo del Valle as to the want of protection by the authorities in his mining operations?—A. I think he had been troubled some time before that; had been interrupted in his mining operations, and had been interfered with, whether by the military or civil authorities I don't know. He was a Spaniard and did not speak English, and I could not talk very much with him; I think he had, but whether it was years before or during these few preceding years, I don't know. He had been there a long time.

Q. Well, did it make any such an impression on you as to appear that the authorities were not able or willing to protect mining interests at the time of your visit?—A. No; it did not strike me that way. I did not think about it, in fact.

Q. Can you fix, with any more accuracy than you have already done, the time when Mr. Exall was paid?—A. No; I can not; it was some little time.

Q. You say it was some weeks; may have been a month; may have been more, after his return?—A. Yes; it may have been two months; I don't remember. I know we got together and chipped in.

By the CHAIRMAN:

Q. He was not paid, though, until after he had threatened to sue?—A. I think that was the trouble, and we would try and compromise with him.

Q. Did he make this report to you before he was paid, or afterwards?—A. Oh, before he was paid; when he came on.

Q. Did he make the report to you before you resolved to proceed against the Mexican Government, or afterwards?—A. Oh, when Mr. Exall came back, I don't think there was any Mexican commission thought of; at least it was not by me, that I recollect of now, at all. I don't think there was any idea of ever bringing any suit against the Mexican Government.

Q. When Exall got back?—A. No, sir.

Q. And there was no idea of bringing any such suit at the time you paid him?—A. No, sir.

Q. And you had no idea that there was any such convention organized under the treaty at that time between the two Governments?—A. I don't remember, sir. It might have been in existence, or it might have been in an inchoate state; I know that would have made an impression upon me if I had known of it at the time of the settlement with Exall.

By Mr. LINES:

Q. Could not you have presented a claim to the Mexican Government if there had been no commission organized?—A. I suppose so.

Q. You had no idea of doing that?—A. I had no idea of doing it. The thing just dropped dead; I had something else to attend to. The cow was dry, and I was going to hunt a fresh one.

By Mr. FOSTER:

Q. To return to the question of Mr. Exall's pay, I think you testified that he must have had enough to come back on?—A. I suppose so; I don't know how he got back.

Q. Then, did this money you paid him embrace anything for his traveling expenses?—A. I don't know; it must have, probably.

Q. For he must have money to get back on?—A. I suppose so; he may have borrowed from somebody.

Q. Well, did he tell you he borrowed \$250, or any sum of money, of Peña, at Mazatlan?—A. I don't recollect, sir.

Mr. KENNEDY. Mr. Chairman, how is that relevant to this controversy?

Mr. FOSTER. I am trying to get at the expenses of this company.

Mr. KENNEDY. The witness has just stated to the best of his recollection Exall received \$2,000 or \$2,500. Now, what difference does it make what the items of that \$2,000 or \$2,500 were, whether traveling expenses or anything else?

Mr. FOSTER. If the mines were in such a condition that he had to run around to borrow money to get home on, I think that is important.

Mr. KENNEDY. But that would be a matter of argument. It may be because there were no banks down there.

By Mr. FOSTER:

Q. Well, let us prove the fact. Did Peña ever make any demand on

the company for money borrowed by Exall?—A. Not that I ever heard of. It is the first intimation I have ever had of it.

Q. You have stated that there were no assessments made to meet expenses of prosecuting the claim before the commission; they were not in the shape of assessments were they?—A. No, no; they were voluntary.

Q. They were voluntary contributions?—A. Voluntary contributions, as I understood.

Q. How many contributions were made?—A. I think there were two, if not more.

Q. When was the first one made?—A. I don't remember, sir; but it was made about the time that Mr. Adams went out to Mexico, a little previous to that, or about that time, I think.

Q. You stated the amount to be about \$3,000?—A. I think it was more than \$3,000.

Q. More?—A. Yes, it may have been \$4,000.

Q. In order to refresh your memory, I refer you to the fact that it appears that an agreement was made with Adams December 9, 1869, and it was there agreed to contribute \$3,500 on the part of the company towards expenses. Does that conform to your recollection of the fact?—A. Yes, it was \$3,500 or \$4,000; \$3,500 probably may be correct.

Q. Can you fix the date when the second contribution was made?—A. No, sir, I can not; I don't remember.

Q. Either you or Mr. Baldwin—probably it is Mr. Baldwin—referred to some controversy that arose between Adams and the company in regard to how the expenses of prosecuting the suit were to be paid. It appears that an arrangement was come to between the company and Adams on the 13th of September, 1878, and it was there fixed as the amount to be contributed on the part of the company, \$10,560. How does that conform to your recollection of the amount?—A. Well, I was in Louisville at the time, sir, and know nothing about it. I understood something about it, but was living in Louisville at the time.

Q. You contributed to that second sum, did you not?—A. I don't remember. I know they bled me whenever there was anything to be done.

Q. Well, do you remember whether \$10,560 was approximately the amount they were trying to raise?—A. I don't know whether it was \$10,000 or \$20,000. I don't know anything about that.

Q. How did you become acquainted with Adams?—A. Well, he came on to New York there from General Bartholow, from Saint Louis, and General Bartholow had engaged him to go out to the mines to prosecute this business.

Q. Did he come from Saint Louis or the West?—A. He came from Saint Louis directly, I think, sir, according to what he told me; had letters from General Bartholow.

Q. Did you know anything about his mining experience or history?—A. Nothing at all.

Q. Did you know he had been in California?—A. Never saw the man in my life before; never heard of him.

Q. Well, have you learned since the employment anything about him?

Mr. KENNEDY. Oh, I object to that.

The CHAIRMAN. I do not think that is competent.

By Mr. FOSTER:

Q. Have you ever been asked at any time to give a deposition to be

S. Doc. 231, pt 2—55

used before the Claims Commission in the original trial of this case ?—
A. Never, that I know of, sir.

Q. Did General Adams never ask you for a deposition ?—A. No.

Q. Mr. Ely ?—A. No.

Q. Never said anything to you on the subject ?—A. No, not that I remember of at all.

Q. You held the position of treasurer at the time of this meeting at which Exall made his report ?—A. Yes, I was there; acted as treasurer.

Q. You continued to act as treasurer, so far as that office was filled by any person, after that time, did you not ?—A. I think I did, yes; until I went away. I did at that time I recollect.

Q. Were you aware what steps were being taken in 1869 and 1870 to bring suit against Mexico ?—A. Oh, yes; contributed to paying the expenses of getting the testimony.

Q. Did you make any offer of furnishing information as to your visit to Mexico when you purchased the mines, or your knowledge of the company's operations as treasurer ?—A. I did not.

Q. Did you tell General Adams that you were one of the persons who went to Mexico on behalf of the company to purchase the mines ?—A. I don't remember; probably he knew the fact.

Q. Did he know you were the treasurer of the company ?—A. I presume he did; I don't know.

Q. I desire you to state what amount of stock you hold in this company ?—A. I subscribed originally \$10,000.

Q. Well, how much do you hold now ?—A. And subsequently I acquired \$6,000 worth of stock, I think. That is my recollection of it, \$16,000.

Q. Then, you are the owner of \$16,000 of stock of the company ?—A. I think so, sir; perhaps with the exception of one or two shares transferred to somebody to enable them to hold a directorship.

Q. What is the amount of your interest in the suit that was brought by John H. Garth ?—A. I don't recollect. Probably you will see from the statement there.

Q. Well, the second cause of action states :

II. That on the 15th day of May, 1867, at the city of New York, the defendants made their promissory note, dated that day, and thereby promised to pay to the order of Harrison, Garth & Co. seventeen thousand one hundred and eighty dollars and forty-seven cents on demand.

My recollection is that you stated that that advance was taken up by you individually.

A. That was. I paid it, gave my check for it.

By the CHAIRMAN :

Q. Let me ask you what it is that \$17,000 note includes ?—A. That includes the sum of the drafts from De Laguel and Bartholow and others that I paid.

Q. Paid first by your firm and then paid by you ?—A. Yes.

Q. Does it include your stock ?—A. Oh, no; that does not include the stock at all.

Mr. FOSTER. This is the advance, and there is one other item I want to call his attention to in that connection.

The CHAIRMAN. Yes.

Mr. FOSTER. There is also a statement.

II. That on the 8th day of June, 1867, at the city of New York, the defendants made their promissory note, dated that day, and thereby promised to pay to the order of D. J. Garth nineteen hundred and ninety dollars and forty cents on demand.

By the CHAIRMAN :

Q. What was that for?—A. That was for the same purpose, but I forget now how it was done.

By Mr. FOSTER :

Q. There are a number of the same amounts here?—A. Yes. I met my brother and he said he advanced as much money as he was going to. He had a good deal of money, and Mr. Collins and he advanced the money and took my obligation, and Mr. Collins's obligation, and Mr. Hearn's obligation, and I don't know what Steve Nuckolls's obligation was, for the amount that he had advanced and his own. It was on account of these drafts that came from California.

By Mr. FOSTER :

Q. Well, these two items that I have read, amounting to \$19,170.87, does that represent your interest in this judgment?—A. Yes; with the exception of the balance that I contributed.

Q. No; I am speaking of this judgment?—A. I think so, sir, according to my recollection; I think so.

Q. Now, can you state any more accurately than you have already stated, the amount you advanced for meeting the expenses of prosecuting the claim before the Commission?

Mr. KENNEDY. Oh, that has been gone over and over again.

By Mr. FOSTER :

Q. My recollection is that you fixed the amount advanced by you for the expenses of prosecuting the claim against Mexico at about \$2,000. Is that it?—A. It may have been something over that.

Q. Well, would you think that \$2,500 would represent more nearly your advances?—A. I think it would.

Q. Then your interest in La Abra award would be represented by your stock, \$16,000, your interest in the judgments of \$19,170.87, and the amount advanced for the expenses of prosecuting, about \$2,500?—A. Well, perhaps so.

Q. That would represent your interest in the award, would it not?—A. According to my recollection.

Mr. KENNEDY. Well, unless some of it had been paid back.

By Mr. FOSTER :

Q. I will come to that point. What amount, if anything, has been paid back on any of those items I have mentioned?—A. Well, the only thing that ever has been paid to me was a part of the voluntary assessments which have been made to secure this testimony.

Q. That is a part of this \$2,500?—A. Yes.

By the CHAIRMAN :

Q. How much of that has been paid back to you?—A. I think about \$1,500 or \$1,600.

Q. And that is all you have ever received out of this award?—A. That is all.

Q. Well that seems to give the data for stating the account. Let me ask you if you have got any papers from the company to show these different items of indebtedness in your favor?—A. I have got this note, and then I think I have got this \$1,990 note.

Q. Have you got them with you?—A. No, sir. I have it in New York in the vault.

Q. You have, then, a written statement from the company of the debts

of every kind that are due?—A. I don't think I have got a written statement of all that, because I don't think I have got a written statement of the amount I contributed voluntarily to the prosecution of this claim.

Q. You mean the \$2,500?—A. Yes. I don't think I have any written statement of the amount I paid of my share of the contribution to Exall's wages. That, according to my recollection, is about all.

Q. Did the amount of your contribution to Exall's wages go into that judgment?—A. Oh, no, sir.

Q. Not at all?—A. No, sir.

Q. Then that is still an outside matter; how much is that?—A. That I paid for Exall?

Q. Yes.—A. I don't remember, sir; it was an amount made up by Mr. Collins and myself, mostly.

Q. I don't care who made it up. I want to know the amount.

By Mr. KENNEDY:

Q. That is what you contributed?

The CHAIRMAN. Never mind, Mr. Kennedy; I am examining him now.

The WITNESS. It was probably \$1,200, or \$1,300; probably something of that size.

By the CHAIRMAN:

Q. That you contributed?—A. That I contributed.

Q. Have you any writing to show it?—A. No, not that I remember now. It don't occur to me.

Q. You have no book or account of that?—A. No, I have not.

Q. Well, when you come to get that back how will you ascertain the amount of your interest?—A. Well, I suppose the company will know.

Q. Who kept the statement of that account?—A. I don't know whether Mr. Worthington made these entries in the book or not. I don't know.

Q. You feel entirely easy about it, do you; that you will get your income back when the time comes?—A. I don't think I will ever get a cent.

Q. Why if this award is paid there is a great deal more money than enough to pay all your expenses twice over, three times over.—A. Well, it was a good deal like this. There has been a good deal of delay, a great deal of opposition, and the matter has got into courts, and I feel a good deal like the fox did when he saw a great many tracks going into the lion's den and none coming out. It is very slow business.

Q. You feel something like Mexico did when you saw the tracks going in the same direction?—A. I suppose so; there are a good many difficulties.

Q. Now let us try to get at the facts about this. I must confess you have less memory in the way of exact statement than any man I ever saw.—A. I am sorry.

Q. Have you no memoranda now that you can refer to that will enable you to establish as against the La Abra Company or as against this award the amount of money you are actually entitled to out of the award if it is all paid over to the company?—A. I think I have approximately, probably nearly so, in some of my old papers at home.

Q. Well, do your papers that you keep at home or elsewhere only state matters approximately or accurately of a business character?—

A. No, they state accurately, except some matters that I give away or something of that sort.

Q. Well, you see you are switching off again. I want to get you down to the fact, if I can do it, in regard to which of the items of indebtedness due you by this company, either in the form of stock or the amount in that judgment, or the amount that you contributed to getting up testimony in the case, or the amount that you contributed to the payment of Exall's expenses. Now, in regard to either of these items, what statements or memoranda have you going to show exactly what is due?—A. As I tried to state before, Senator, I have the two notes, according to my recollection, in New York, and I have a memorandum, perhaps.

Q. You put in "perhaps." Now, do you mean to swear to it, or not?—A. Well, I could not say that it is all. I have got some memoranda of the amounts paid by me, but I don't know that they contain all. I have sometimes been asked to contribute \$25 or \$30, and some expense of that sort, which I have done without making any entry at all, just out of my pocket.

Q. Now, is that your way of conducting business?—A. It is, unfortunately, the way I have conducted a great deal of it.

Q. And have you got rich on it?—A. I am not a rich man as they count riches in New York. I pay everything as I go, and I am an economical man so far as my own personal habits are concerned.

Q. Well, it would be surprising if you were rich.—A. Well, I am carrying on my own business affairs on a very business plan. I have competent cashiers and clerks to do that.

Q. Now, when you made a payment on account of this company, would you have a cashier or clerk to make any entry on the book?—A. Oh, unquestionably; he would charge it up to me when these drafts came in, presented half an hour or an hour—I don't know how long—before bank hours closed.

Q. Now, I do not want any side history about that. I want a direct answer to my question.

The stenographer will read the question.

The stenographer read the question as follows:

Q. Now, when you made a payment on account of this company, would you have a cashier or a clerk to make an entry on the book?

A. Yes.

By the CHAIRMAN:

Q. You would?—A. Yes.

Q. And he did make the entry?—A. I suppose so.

Q. Have you access to those books?—A. I have not.

Q. Where are they?—A. They were long ago settled up and I don't know where they are; don't know where they are at all. They are old books of D. J. Garth & Co., and are gone; probably sent to the junk-shop years and years ago.

Q. Now, if these books have gone to the junk-shop, as you say, "probably"—you do not say anything certainly; never did—if they have gone to the junk-shop, what evidence have you of these payments that you made against La Abra Company, so as to entitle you upon the distribution of this fund to what is actually due on them?—A. I have got the notes of the company.

Q. Is that all?—A. That is all.

Q. Do these notes include the different items you have paid at different times, \$20 or \$30, as you say, and that are entered by your clerks

upon your books or by your bookkeeper?—A. I beg your pardon; the notes do not cover only drafts.

Q. Then, there are amounts of money that you have paid out for this company which you are not able to recollect, which are entered upon your books by your cashiers and book-keepers?—A. I beg your pardon; the drafts as they came in were paid by Harrison, Garth & Co., and charged; paid for this La Abra Silver Mining Company. I was the treasurer of that. When the closing up of that company was made, this account was closed by my draft and in cash to the company for what had been paid by them, and that note closed that account \$17,180. Subsequently that \$2,200 was paid, a note taken for the company, and a check made for the amount.

Q. A note from the La Abra Company, you mean?—A. Yes.

Q. Then that does close all the transactions behind the dates of those notes between you and La Abra Company?—A. Yes.

Q. Then, these two notes actually represent the amount of money actually owed you in consequence of advances on anything else?—A. I am not certain but what there is an item of \$3,000 we paid J. D. Hardy.

Q. What was that about?—A. That was for services at the mines.

Q. You paid that personally, yourself?—A. I paid that personally.

Q. Well, you have not spoken about that before.—A. Well, I am not certain but what it is included in that—I don't remember; my recollection is not clear, whether that is included in this amount or not.

Q. The \$17,000 note?—A. I don't remember whether it is or not now.

Q. So that you have no real conception of the actual state of the account between you and La Abra Company?—A. Well, I have a conception that I have tried to give you.

Q. Not by any means an accurate one?—A. Not to a fraction of perhaps a few dollars.

Q. Or a few thousand dollars?—A. Well, I don't think it amounts to that.

Q. You do not know whether the Hardy matter was embraced in it?—A. Well, I don't remember now.

Q. When did you make that payment to Hardy?—A. I think it was—it must have been sometime in 1867; I don't remember.

Q. Was it while the operations were being carried on in Mexico?—A. Yes, 1867, I think.

Q. And Hardy came to New York for the purpose of getting his money?—A. Yes.

Q. Was that money he had advanced or services he had rendered?—A. Well, services he claimed to have rendered.

Q. On his expedition out there, looking at the mine and assisting in buying it, and all that?—A. No; that was service; he was employed by Mr. Bartholow, and I don't think he and De Lagnel got along well, and he left De Lagnel.

Q. He left De Lagnel, came to New York, and you settled with him?—A. Yes.

Q. Paid him out of your pocket?—A. There was nobody else to pay him.

Q. And you do not know whether the company gave you any obligation for that?—A. I don't remember distinctly.

Q. You do not know whether it is included in the \$17,000 note, or any other note?—A. It may be included, but I don't remember how that stands. I would have to think of it to find out.

Q. If you were here now settling with La Abra Company you could not tell the state of your account?—A. I could not without going to New York and looking through and examining a considerable amount of papers that I have.

Q. Well, if these books and papers have gone to the junk-shop, how could you look over them?—A. I might look through what I have got in my vault.

Q. We have been now in examination of this case for some weeks.—A. Yes.

Q. Your attention has been especially drawn to the situation in every respect. Have you been to your vault to examine the condition of affairs?—A. I did not. I have thought very little of it. Since I was here I have had a great deal of trouble and distress in my household and have had very little occasion to think of any sort of business, in fact.

Q. Where are your stock certificates?—A. I think they are in my vault in the Safe Deposit Company?

Q. And they represent \$16,000, if I understand you right?—A. I think they do.

Q. How much money has La Abra Company received out of this award?—A. I don't know.

Q. You don't know how much?—A. No, sir.

Q. You have received two installments, have you not?—A. I don't know whether it is two or three.

Mr. LINES. Five, Mr. Chairman.

The WITNESS. I don't know anything about it.

By the CHAIRMAN:

Q. You do not know anything about that?—A. I do not.

Q. Have you ever had more than one distribution out of it?—A. I have no distribution out of it, except of the part of that voluntary contribution.

Q. Fifteen hundred dollars about?—A. About that.

Q. That was money that you advanced towards getting up the testimony?—A. Yes.

By Mr. FOSTER:

Q. Mr. Grath, are you now a trustee of La Abra Company?—A. No, sir; nothing to do with it.

Q. Were you a trustee when the money was received on the award from the State Department?—A. I don't think I was. If I was, I was in Louisville. I was living in Louisville at the time.

Q. I see you signed the report of 1877?—A. Yes; I must have been a trustee, but I did not act. I was put in, probably.

Q. When did you return to New York?—A. I returned in 1880, in May.

Q. Have you since that time held the office of trustee?—A. No, sir; nothing to do with it at all.

Q. Do you state that after the meeting of the trustees at which Exall made his final report the whole thing was abandoned, and you had no idea of bringing any claim against Mexico at that time?—A. At that time there was none that I know of.

Q. Can you state when the idea was conceived of bringing a claim against Mexico?—A. No, sir; I don't recollect.

Q. Can you state who conceived the idea?—A. No; I don't know. It was brought to our mind—I don't know but by Bartholow.

Q. When he brought Adams to see you?—A. I think there was probably some correspondence before that; some little time before that.

Q. Did Mr. Collins ever conceive the idea of bringing a suit?

Mr. KENNEDY. Oh, I object to that.

Mr. FOSTER. He was president of the company.

Mr. KENNEDY. I know, but you must ask him what Mr. Collins said, if anything, not whether he conceived an idea.

The CHAIRMAN. Yes; that is correct.

By Mr. FOSTER:

Q. Did Mr. Collins say anything about bringing a suit against Mexico after this meeting of the trustees when Exall made his final report?—A. Oh, there was nothing said about it that I remember.

Q. Did Mr. Ely ever say anything to you about it?—A. I don't remember that he did.

Q. Can you tell me when De Lagnel's last draft for \$5,000 was protested?—A. No, sir; I could—

Q. I call your attention to the fact that in your letter of May 20 to Exall you stated that De Lagnel's draft has come and was protested and unpaid.—A. I suppose it was about that time.

Q. It was in May, 1877?—A. I suppose so. I have no distinct recollection of the date.

Q. Well, it was previous to May?—A. Yes; if that letter says so it is so; that fixes it.

Q. When did you receive notice of Exall's intention to draw on you for \$3,000, and what answer did you return? I refresh your memory by your letter of July 20.—A. What page?

Q. 321; that short letter. You refer to having received a letter from him

advising us that you had drawn on me for \$3,000, gold.

Just look over that; you will probably remember it.—A. Do you want to know whether I wrote that or not?

Q. No; I want to know when you received notice from Exall of his intention to draw on you.—A. Well, I don't recollect at all.

Q. Well, it was previously to July 20, 1867, was it not?—A. I suppose so, naturally.

Q. What answer did you return to him, to draw or not to draw?

Mr. KENNEDY. Is not his answer there, Mr. Chairman?

Mr. FOSTER. Well, what is it?

The WITNESS. Shall I read it?

The CHAIRMAN. Yes; read on.

The WITNESS. This is dated July 20, 1867:

D'R SIR: The steamer is just starting, and I have only time to say that your letter of the 11th, by private hand, has been rec'd, advising us that you had drawn on me for \$3,000 gold. In former letters you will have learned the condition of things here, and that there is no money to pay same, and that former dr't of de Lagnel has been returned unpaid, and that you were urged to try and get along with what resources you have. These letters, no doubt, reached you in time to prevent your drawing, as no draft has been presented, and we hope by this time there is no necessity for doing so. I have no time to-day to write more, but hope you are getting on well; will write you fully as requested. I enclose several letters from y'r friend. Y'rs truly.

D. J. GARTH, Tr.

By Mr. FOSTER:

Q. I want to ask you a question, and before doing that I desire to refresh your memory. It has been shown in your former testimony before the committee that the judgment in favor of John H. Garth, to

which reference has been made to-day, was rendered July 3, 1867. May 10, 1867, you write:

The affairs of the company—

This is a letter to Exall—

The affairs of the company here are much embarrassed; a few of the directors have advanced all the money to carry on the operations, and have been nearly ruined by it, and are not able to afford any further aid from here, and look anxiously to be reimbursed very soon, from the products of the mines, and it is hoped that your best energies will be exerted to afford relief.

May 20 you write—

I do trust that before that date you will have plenty of means to do so.

That is, to pay off this De Lagnel draft that I have just cited.

I would now again repeat that I have made every effort possible to raise money here and have failed, and I have advanced all I can possibly do, and the other directors have done the same; the stockholders will do nothing, and it is probable the company will have to be sold out and re-organized.

May 30, you write again to Exall:

I can not yet say what can be done in the future; no meeting of the stockholders has been held, and nothing done to pay off the debts here, now pressing on the company.

June 10, you write to Exall:

There is no money in the treasury, and we have no means of raising any, and a few of us have already advanced all that we can do, and you have been advised that the draft last drawn by De L., on 10th April, was returned protested, and I hope you will be able to take it up when it gets back, promptly.

July 10, you write again to Exall:

In these, as well as in preceding letters, you were fully advised of the condition of the company here; that there had been no funds in the treasury for a long time; that appeals had been made in vain for aid to the stockholders, and that the parties here who had made heavy advances to the company were anxious for its return, and refused to make any further payments.

Again you say, in the same letter:

You will see, from all my letters that no further aid can be given you from here and that you must rely upon the resources you now have.

Now, having refreshed your memory by those letters, I desire to ask you whether it was not a fact that the stockholders and directors had reached the conclusion before July 20, that they would send no more money to Mexico?—A. I reached that conclusion myself.

Q. Well, had not the directors and stockholders reached that conclusion? I have read to you what you reported as to their intention.—A. Well, I can not say any more than as to myself.

Q. You can state what the fact is, or whether it is a fact or not? Was it or not a fact that the stockholders and directors had reached the conclusion that they would send no more money to Mexico?

Mr. KENNEDY. Now, I object to that on the ground that the witness can not.—

The CHAIRMAN. That objection is not good. This witness is a reluctant witness, very hard to get down to the point, and I am giving Mr. Foster full opportunity to examine him on that account.

By Mr. FOSTER:

Q. You have heard what has been read to you?—A. As I have stated there has been no official determination by the directors, or trustees as they might be called, in respect to the matter. So far as I was individually concerned—

Q. I am not asking about you individually. You have explained that enough. We do not want to hear anything further on that point. I want to know the fact as to the stockholders and directors.—A. The stockholders and directors had taken no official action in this matter at all.

Q. I did not ask you whether the stockholders and directors had taken any official action. I ask you whether they had not determined to send no more money to Mexico in July, 1867?—A. Well, I don't know. I could not speak for individual stockholders or individual directors any more than I have done; that is all I can say.

Q. Had appeals been made to the stockholders for further assessments in vain?—A. I suppose that some application had been made to the stockholders to re-imburse us.

Q. Well, had they refused to make further payments?—A. Well, they did not do it.

Q. Wasn't the company in a bankrupt condition in July, 1867, and unable to raise money in New York to prosecute the work, or hold its property in Mexico?—A. As a company, there wasn't any money to pay it out of the company. They had no money as I have repeatedly stated. I state it now.

Q. The question is whether they were able to raise any money; were they able to raise any money in New York as a company?—A. I would say that I don't know anything about that, sir.

Q. Who does, if you don't?—A. I state to you that there wasn't any money in the treasury.

Q. That was not an answer to the question.—A. That the directors had paid and were paying whatever—

Mr. FOSTER. Mr. Chairman, I wish you would try to get him to answer it.

Mr. KENNEDY. Mr. Chairman, I think he ought to be allowed to finish his answer. He was explaining that the directors had been raising money on their own responsibility.

By the CHAIRMAN:

Q. That was a very plain question. Was the company able to raise money in New York on its own credit?—A. We did not try to borrow money—

Q. Do you know whether you were able to do it or not?—A. I did not know. I won't say whether they were able to do it or not, because there was no effort made by the company as a company to raise any money.

Q. Had the company any property of any value?—A. Not except that in Mexico—except that mine.

Q. That, as a mine, was of no value?—A. That is a question.

Q. It had no money in its treasury?—A. No, sir.

Q. After stating the condition of that company to a money lender, could that company borrow money in Wall street on its own paper?—A. We did not try.

Q. What is your opinion whether they could or not?—A. My opinion is of no value in the matter. My opinion, as an officer, might be of no value.

Q. I put value on your opinion as a witness. The question is whether, in your opinion, in that situation in New York, that company could obtain credit in Wall street for any considerable amount?—A. I do not know what it could have done.

Q. What is your opinion about it?—A. Well, my opinion is, I would not try.

Q. You considered it so desperate a case that you wouldn't have tried to make an effort to do it?—A. I wouldn't make an effort to do it. I didn't try. Individually, I would not.

Q. Now you have got it down. I am sorry to put you to so much trouble.—A. I know, but you put it in such a way that I could not answer it.

Q. No, I put it very direct.—A. I want to say now, if you please, in reference to this matter of Hardy, I find that it was in that statement and I forgot it.

Q. The matter of what?—A. The \$3,000 to Hardy was in the statement. I was in doubt whether it was in there.

Q. Whether it was covered by the note of \$17,000?—A. I think it is. You will find, whatever it is, that it is stated in that paper. There is a printed statement. It was in that statement. I had forgotten the fact, not thinking of it.

Q. That statement is in a copy-book, is it not?—A. I don't know. It is in there I suppose. Mr. Lines has it, or Mr. Foster.

Mr. FOSTER. I don't know what statement he refers to.

Q. Do you mean the judgment of Garth?—A. Yes, sir; the judgment of Garth.

Q. The Garth judgment?—A. Yes, sir.

Mr. KENNEDY. What page is it?

Mr. FOSTER. It begins on page 120.

Mr. KENNEDY. Of what book?

Mr. FOSTER. Document 274. I do not see anything there in reference to Hardy.

Mr. LINES. It is in the letter-press copy-book.

By the WITNESS. Aint there another statement there?

Mr. FOSTER. This is probably it. Mr. De Lagnel sends a statement of indebtedness contracted by General Bartholow at the mines; is that what you refer to?—A. No, sir; I think there is a statement there somewhere.

Q. "J. V. Hardy, money advanced, \$755.48."—A. That aint the statement.

By Mr. LINES:

Q. Is it the statement of General Bartholow?—A. No, sir. I thought it was in the statement of the judgment. I don't know.

Q. Here is something in a letter from Bartholow to you.—A. It is not in Bartholow's time. I don't know where to find it now, but I know that is part of the judgment.

By Mr. KENNEDY:

Q. It is a part of the judgment?—A. A part of that judgment.

By Mr. FOSTER:

Before asking you another question I desire to refresh your memory by reading from letters from the superintendent to you, the receipt of which you have recognized before the committee; the first is the letter of De Lagnel of September 7. You will find the extract on page 280. He says:

The history of the Promontone mines I send herewith, this having only arrived a few days since.

This, as all other mines we hold, is secured by prorogues newly obtained.

On page 284, the letter of October 8, from De Lagnel to Garth, treasurer, says, among other things:

I doubt whether your expectations will be ever realized respecting the looked-for yield of metal from the mines, though sufficient may be had to repay well, I trust.

The Guaripamey property I have secured until next January by prorogue, but I doubt whether I will be able to cover it after that date, as I suspect certain parties of being on the watch to denounce it, desiring to work it; therefore they will operate to prevent the grant to me of further indulgence.

The Guadalupe (or rather the Concordia is where they are working) mine is doing poorly, the tunnel handsomely driven and work well done, but no metal. A small quantity at the mine is all the result obtained, and I am led to believe that they will suspend operations.

In this supposition I may be wrong; have no authority for the belief, but give it as I do the other information, to put you on your guard.

I read also from page 288 from the letter of De Lagnel of November 17, 1866, at the bottom of the page:

As I have already stated to you, all the mining property has been covered by prorogue up to January next. What will be the result of another application I can not say; but should the worst come to the worst, a force, limited, can be put to work, and this, with the interval of some months before it can be denounced, will, I trust, serve our purpose.

Page 307; this is a letter of July 13, from Exall to you, which you acknowledged the receipt of in your former testimony:

Since stopping off we have been trying to make arrangements with the men to work by shares and by the cargo. I have succeeded in getting four miners to work by the cargo. They are working in the Arryan, and getting out some good metal. I hope to be able to keep them there; by doing so it will secure the mine in every way. Four miners is all I had there before. Mr. Cullins thinks that in a short time he will be able to get more men at work in the other mines. We can do better with them when they are a little hungry.

Working in this way is much better and attended with the least expense. They are provisioned for a week and charged with what they get. What metal they get out is assayed; if it assays an amount worth working (we pay them in goods; a little money now and then), about one-half its assay value. They, of course, will get out nothing but good metal, if it can be found. You see, in this way we get the metal out free of cost, buy it at one-half its value, pay in goods, and make a handsome profit on them. As long as the men will work in this way (which they will not do unless they get good metal) it will be our best way of working the mines. We must not expect them to get out any amount, but what is gotten out in this way will pay for packing down from the mountains. If I am not able to get men in the other mines I am privileged by the mining laws of the country to stop working in mines four months in the twelve.

On page 309 is the letter of August 5, 1867, from Exall to the witness, from which I read as follows:

The Cristo & La Luz, which have been worked for over a year, I am privileged to stop for four months. The Abra I must work; will put in some men; see what can be found. No further prorogues will be given, and although I have no fear of any one denouncing the mines, I must not leave unprotected.

Q. These are reports which have been made to you by the superintendent, and which you stated you received; I want to ask you whether you did not know that the failure to send money to Mexico would endanger the loss of the mines—whether you did not know that on July 20, 1867?—A. I did not.

Q. What did you understand the purport of this information that has been given to you was as to the condition in which the mines were at those dates, running back for a number of months previous to July, 1867?—A. I had hoped—

Q. Not what you "had hoped." What did you understand?

The CHAIRMAN. He says that he did not know.

The WITNESS. I did not know. I had hoped that they would understand the business better, and—

Q. I will ask you a question on that point. I want to first try to refresh your memory.

Mr. KENNEDY. Mr. Chairman, the proper order would be to ask the

witness a question, and then, if the answer is unsatisfactory, his memory could be refreshed afterward. I have not made any objections.

The CHAIRMAN. That is the proper order. You can ask him the question generally, and if the witness says that he does, or does not know, you may try to refresh his memory.

Mr. FOSTER. I thought probably we might be able to help him a little in advance, but I find we are unable to do that.

Q. Did you have any well founded belief that sufficient money could be obtained from the ores to meet current expenses, and pay off the debts due at the mines to employés and others?

The CHAIRMAN. At what time?

Mr. FOSTER. In July, 1867.—A. I expected there would be.

The CHAIRMAN. That was not the question. He asked you if you had a well founded belief.

The WITNESS. I do not know that I had a well founded belief. I had a belief that they would do so.

Mr. FOSTER. I find in a letter of July 13, 1867, sent to you by the superintendent, a statement of indebtedness, and he says in the letter:

Before leaving Mazatlan, I made other purchases, making the whole amount which E. P. & Co. settled for me (including \$500 borrowed) \$1,252.94 cash. This cash was lent and paid for me on my promise of payment by return steamer, which is the one now coming.

On page 309, in his letter of August 12, which you received, he sends you a statement of the run of the mill from May 27 to July 13, inclusive. That statement shows a net loss of \$10 per ton on all the ore that he had reduced at that time.

Mr. KENNEDY. Where are you now, sir?

Mr. FOSTER. Page 309.

Mr. KENNEDY. Is that your own statement about the net or loss, or did you read it?

Mr. FOSTER. It was my own statement. I see that he is not examining the book himself. The statement, which is mine, is that it shows a net loss of \$10 per ton. He also reported that the Bank of California's draft had been returned to you, and he was threatening a suit upon it. I want to know now whether this information that he furnished you led you to have any reasonable expectation that he was going to get money enough out of the mines to pay its current expenses and pay off these debts that were pressing against him? Can you swear, after examining this, that you have a reasonable expectation that in July, 1867, Mr. Exall could have obtained from the ores money enough to meet current expenses, and protect the property and pay off these debts which I have cited?—A. I expected him to do so. I hoped he would be able to do so. I did not know what improvements would be made in the ore. I know how rapidly these things change. I have understood that, and I now believe if many of these ores were rebellious—if they were rich, as I was informed—I believed them to be valuable; I was satisfied that if they had the right sort of skillful and able men there to manage this thing, that understood the business, I believe the results would have been different.

By Mr. LINES:

Q. Did you try to get those men?—A. We did as far as I know.

Q. De Lagnel was not there at that time?—A. Exactly. So I know he was a good man.

Q. We are talking about July, 1867.

Mr. KENNEDY. Pardon me, Mr. Chairman, Mr. Foster read letters way back.

Mr. FOSTER. Not on this question.

Mr. KENNEDY. You skipped over 5 pages.

Mr. FOSTER. I began on page 306, on this question, and read to page 307. It is a very immaterial question.

The WITNESS. I was sanguine they would be able to sustain themselves, and that eventually the thing would be profitable notwithstanding all the unfavorable reports that came here.

Q. Did you have any source of obtaining information as to the condition of the mines except from the superintendent?—A. No other that I know of, sir.

Q. What fact did he state to you which justified your belief in July, 1867, that he would be able to extract sufficient money from the ores at the mines to meet current expenses, protect the property, and pay off the debt. What fact did he report to you that would lead you to that belief?—A. I can remember—

Q. You can answer my question. I ask you what fact he reported to you on which you based the belief that you have now stated?

Mr. KENNEDY. Mr. Chairman, on that I want to say that the witness would be at liberty to read all the letters that De Lagnel and Exall wrote to him.

Mr. LINES. That Exall wrote to him.

Mr. KENNEDY. I will limit it to Exall. I notice that Mr. Foster, in one of the extracts that he read to the witness, stopped at a place I marked on page 307, which gives an entirely different color to the condition of affairs down there. I marked that at the time because the extracts from those letters are taken out to suit Mr. Foster's purpose, and the letter ought to be submitted to the witness, if he is going to be pressed in regard to the foundation for a "well-founded" belief.

Mr. FOSTER. Mr. Chairman, I took the trouble to bring from the committee-room a copy of these letters, and put them in Mr. Garth's hands, and I have read the pages to him, and if he does not choose to examine them it is not my fault, as I read them, or make a criticism of them as I read them. I am trying to save the time of the chairman. If the chairman has the time at his command, I can read them all.

The WITNESS. I can not read the book. I have had the headache, took a cup of tea for it, and did not look at the book at the time.

Mr. KENNEDY. I say that Mr. Foster omitted the facts that I have marked at the top of the page 307, which show that an arrangement was made with the company's bankers by which the company's agent down there had, after paying all the debts that he mentioned, a balance of cash in hand.

The CHAIRMAN. Where did you commence reading, Mr. Foster?

Mr. FOSTER. I read commencing at "before leaving Mazatlan," and ended with the words "now coming."

The CHAIRMAN. You do not mean that General Foster perverted any sentence?

Mr. KENNEDY. Not at all. I meant to say, if that had been read, it would have shown that the company's agent at Mazatlan made an arrangement with the company's bankers by which, after paying the existing debts, there was a cash balance on hand.

The CHAIRMAN. Mr. Kennedy, you can read that, if you desire to do so. General Foster was making a general statement of facts, contained in letters from Exall to the witness; he was combining those facts and asking him then, upon a view of those facts with which he proposed to refresh his memory, whether he believed that there were means enough to be derived from that mine to pay current expenses and the debts of

the mines. That was the question. If you have any facts different from those that you desire to put in testimony when you take the witness, of course, you can put them in. I understood you to intimate that General Foster, in reading from the record, had misread a sentence.

Mr. KENNEDY. Oh, no, sir; never! I never intended to say that General Foster misread anything. What I stated was he omitted a certain thing that would have given a different color to the financial condition of the company.

The CHAIRMAN. If so, you can go on and examine him on that hypothesis yourself.

Mr. KENNEDY. I would not examine him in that way. I can not stop counsel with a suggestion that his extracts do not cover the whole case.

Mr. FOSTER. I would not weary the committee by reading all the papers.

Mr. KENNEDY. If I were in court, I would object to all this line of examination by General Foster on the ground that the facts which he uses are all in evidence, and that it is a matter of argument; that the witness has stated over and over again that he had a certain belief; and that when General Foster comes to sum up before the committee he can attack what the witness has said, and contrast it with these letters, and make his argument; he is doing it now, and I am not going to do that when the witness comes into my hands.

The CHAIRMAN. General Foster has a perfect right to ask this witness, who is a trustee and has a very large debt against the company, to state whether or not, at a certain time, he believed that the money that was to be derived from the working of the mine was sufficient to pay the current expenses and the debts that then existed against the company in Mexico.

Mr. KENNEDY. Certainly.

The CHAIRMAN. He asked that question, and the witness said he did believe that the money could be derived from the mine. He said that he believed it. General Foster then called his attention to statements made in Exall's letter to him—

Mr. KENNEDY. Already in.

The CHAIRMAN. It makes no difference—for the purpose of refreshing his memory on the precise point that is now under investigation; and, after he got through, he asked him, in view of these facts that you have received from the statements of Exall, you still state that you believe that this mine will yield enough to conduct the current business and pay expenses, and he said he did, and General Foster asked him to state the facts which produced upon his mind the belief that these mines were sufficient.

Mr. FOSTER. I first asked him if he had any means of obtaining information other than that derived from the superintendent.

The CHAIRMAN. Certainly; and the witness went on, and then you asked the question whether he had any other means of information than that derived from the course of Exall and others who were out there, and he said he had not. Well, now, the argument, of course, begins from that point, and, of course, counsel can not argue it here now, but Mr. Garth has got upon the record his statement that he believed it, notwithstanding all that Exall said to him about it.

Mr. FOSTER. Mr. Chairman, I do not think he answered the last question as to whether he could state any facts that were reported to him by Exall.

The CHAIRMAN. If you think not, I will ask him now.
Mr. FOSTER. It seems impossible for me to get it.

By the CHAIRMAN :

Q. State any facts reported to you by Exall in his letter besides the facts that General Foster has called your attention to, which, in your opinion, justify your belief, as you have expressed it, that that company would be able to pay out of the yield of the mine all the current expenses and pay all the debts of the company in Mexico. Now, state any fact.—A. I don't remember all the purport of this letter; I do not retain them in my mind; but, notwithstanding the discouraging report from there, I still always entertained the belief that they would eventually be able to pay not only current expenses, but eventually to return loans made by me to the company.

Q. Can you state any fact to justify that belief other than those stated by Mr. Foster in his summing up here, derived from the testimony of Exall?—A. I don't know as I can from the testimony of Exall, but from other—from the previous history of it, from what I found out, I believed that the property was very valuable, and I still entertain that belief.

Q. You have not changed your opinion of the value of the property, notwithstanding the results?—A. I have been greatly disappointed in the results, I freely admit, Senator, but I still believe it was owing to—

The CHAIRMAN. I think we will let it stand there.

The WITNESS. That is about the condition of my belief.

Q. In July, 1867, what was your intention in regard to protecting your property in Mexico?—A. I don't know, sir; I don't remember about that.

Q. Did you expect that you would take any steps at New York to protect the property?—A. In 1867?

Q. In July, 1867?—A. I don't remember anything about that.

Q. The last letter presented to the committee written by you is October 10, 1867; I ask you to state—

Mr. KENNEDY. What page is that on?

Mr. FOSTER. The letter is on page 322. I ask you to state whether you wrote any letter to the superintendent at the mine after that date.—A. On what page is it?

Q. Three hundred and twenty-two; the last letter presented to the committee as written by you.

Mr. KENNEDY. Dated October 10?

The CHAIRMAN. 1867.

By Mr. KENNEDY :

Q. Have you got it?—A. Yes, sir; I am reading it over. Is that the the last letter that it appears that I have written?

By Mr. FOSTER :

Q. Yes. I ask you to state whether you wrote any letters to the superintendent at the mine after that date?—A. I don't remember. I have no recollection.

Q. Let me try to help your recollection a little.—A. Well.

Q. On the 30th of May you wrote that De Lagnel had arrived and made his report, and you stated, "We were amazed at the result."—A. Where is that letter?

Q. That is on page 319.

Mr. KENNEDY. Mr. Chairman, of course if he has any of the letters

he ought to mention it to the witness, if that is the object of this inquiry.

The CHAIRMAN. I do not know. Proceed, general.

Q. In that letter you said :

If however the ores are worthless, I don't see any process of working will be of avail, and have the worst fears that our enterprise will, after all, be fruitless of good.

And on the 10th of July you wrote (page 321) :

If it costs more than it comes to, the sooner we find it out the better, and the sooner we stop the better for all parties concerned.

Mr. LINES. Suppose you read the sentence preceding that.

Mr. FOSTER. "Of course," I read the sentence preceding that.

Of course you keep an accurate account of the cost, not only of raising and transporting of the ore to the mill, but of the cost of crushing it and converting it into coin and bullion ; and, as it is a matter of simple calculation, you can soon see if it will pay or if it is a losing business. If it costs more than it comes to, the sooner we find it out the better, and the sooner we stop the better for all parties concerned.

I will direct your attention to what I have already quoted as to this information that you had given him, without going to the trouble of reciting it, that you could raise no money from stockholders, could raise no money from loans—you could send him no more money—I now ask whether that letter of October 30 was not the last word of the company, and whether you had anything else?—A. October 10, you mean?

Q. Whether the letter of October 10 was not the last word of the company, and whether there was anything you could write to him beyond what you had written?—A. I don't know. I don't know whether it was the last or not. I don't remember.

By the CHAIRMAN :

Q. Do you remember of having written any letter after the 10th of October?—A. I do not.

Q. Was there any action or conclusion that the company reached after the 10th of October different from anything you have stated in your former letters to Exall which you communicated to him?—A. I don't think there were any formal meetings of the directors oftentimes for months and months, and the thing was in a most loose—

By the CHAIRMAN :

Q. Do you remember after the 10th of October any change of policy different from that that you have mentioned in your letters of that date and preceding that date on the part of the company and that you communicated it to Exall?—A. I do not.

Q. You do not?—A. No, sir.

By Mr. KENNEDY :

Q. Are you through?

Mr. FOSTER. Not quite. I asked the witness to identify certain letters of Mr. De Lagnel this morning and he identified four. If I am correct, on your direct examination you identified the letters—you identified four letters of De Lagnel pasted between the pages. You identified them upon the cross-examination of Senator McDonald. If my recollection is correct as to your testimony in your direct examination you identified letters of Exall addressed to you that are found in the letter-book up to and including August 5, 1867. I want to ask you whether there were any letters between the letter written by De Lagnel July 6, 1866—

Mr. KENNEDY. What page is that?

Mr. FOSTER. Page 269—and the letter of Exall of August 5, 1867, (page 308)—any letter in the letter-book as printed.

Mr. KENNEDY. The witness will have to look at all these letters.

The WITNESS. I know; but I had no time to do it. Shall I look over all these letters?

The CHAIRMAN. Yes; so as to answer the questions.

Q. You understand the question?—A. Let me see if I do.

Q. From either De Lagnel or Exall, that you did not receive?—A. That I did not receive?

Q. Yes.—A. So that I can answer fully——

Q. Are you answering? Do you want this taken down?—A. No, better not take it down. * * *

Mr. KENNEDY. Put down on the record that the witness has said, "I admit the receipt of those letters." That is definite.

Mr. FOSTER. That is not an answer to the question. I asked him if there is any letter there that he has not received. He says: "I admit the receipt of those letters." That is not an answer to the question.

Mr. KENNEDY. It certainly is.

The CHAIRMAN. Go on, General Foster.

Mr. FOSTER. I am through.

Mr. LINES. Two or three questions, Mr. Chairman.

The CHAIRMAN. Go ahead.

By Mr. LINES:

Q. Mr. Garth, who made the payments for these mines which you bought in Mexico, and how were they made?—A. Mr. Bartholow, I think, made the payments. I made the payments, I may say, because I drew upon my house in New York—at least, I authorized the draft for the payment of these mines after it had been settled in New York that they would be taken by the company, and the company was to be formed—paid through the Bank of California by a draft on my house.

Q. You authorized the draft?—A. Yes, sir.

Q. Whom did you authorize?—A. I don't know as I authorized the drafts, or how that was, but D. J. Garth & Co. paid them. They were paid by us.

Q. Where?—A. In New York.

Q. Where was the draft made?—A. I don't remember; San Francisco or Tayoltita; San Francisco, I think it was. I don't know whether it was by draft or how it was, but we paid Ralston.

Q. Was the draft upon the house of D. J. Garth & Co.?—A. Yes, sir.

Q. You don't remember whether it was drawn in San Francisco or Tayoltita?—A. I don't remember how that was—whether there was any draft given to Ralston or whether we afterwards authorized him to draw.

Q. You were not dealing with Ralston?—A. I know that.

Q. How did De Valle have anything to do with it?—A. It was by correspondence probably between Bartholow and myself that he was paid; got his money in Mazatlan through the Bank of California; how that was done I don't know. I don't know that I ever knew.

Q. You are certain that your house in New York paid it?—A. Yes, sir.

Q. What amount?—A. I think it was \$50,000; maybe more. I think it was \$50,000.

Mr. KENNEDY. What is your question?

By Mr. LINES:

Q. My question is, whether this was paid in Mazatlan; whether these drafts were paid in Mazatlan.—A. I don't know what arrangement De Laguel made. I know that I paid for the machinery and all these things there. I don't know anything about that. I have no knowledge of that at all. I had nothing to do with that. That is a matter that General Bartholow made himself in respect to the mines named. Indeed, there are quite a number of them. I forget what they were. The agreement was with Don Juan Castillo de Valle, and that we would pay him \$50,000 for them. I know that fact, that \$50,000 was paid, for I paid it myself—or, at least, my house paid it, in gold—and it was paid through the Bank of California. How Mr. De Valle got his money from the Bank of California to Mazatlan I don't know.

Q. Was you present when this transaction which General Bartholow testified to occurred?—A. Present where?

Q. Present at Mazatlan?—A. No, sir; that was done after I got in New York. I don't know anything about that.

Mr. KENNEDY. Mr. Chairman, I would like to shorten this by an objection.

Mr. LINES. Suppose you shorten your own examination, Mr. Kennedy, and leave mine alone.

Mr. KENNEDY. It relates to a question you have asked. If the chairman does not hear my objection, that ends it.

The CHAIRMAN. I will after the question is asked, but the other question is answered. Mr. Lines, ask your question.

Q. I want to read something to refresh your memory.

Mr. KENNEDY. What are you going to read?

Mr. FOSTER. I am going to read from the deposition of Thomas J. Bartholow before the commission, on page 473 of the book of testimony. I do not understand it, and I would like to find out about those drafts.

Mr. KENNEDY. I want to make an objection. This matter has been gone into thoroughly. There is no question about the fact that the \$50,000 was paid to De Valle and Manjarrez for their mines.

The CHAIRMAN. How is it material?

Mr. LINES. I do not believe it was paid, Mr. Chairman. De Valle was a witness for the company.

The CHAIRMAN. You are endeavoring to show that the drafts were not paid?

Mr. LINES. I want to find out who drew the drafts and through what bank they were drawn.

The WITNESS. I swear that our house paid it—D. J. Garth & Co.

Q. Where was your bank in New York at the time?—A. I believe it was the Union Bank at that time.

Q. Is the Union Bank still in existence?—A. I don't think it is. I think it is wound up.

Q. Let me read this to you (page 473). I can not find the beginning of the sentence. It is one of Mr. Adams's long sentences.

which we subsequently purchased from J. V. Hardy and a Mr. Luce; we also thoroughly examined the haciendas and old reduction works of said owners, Don Juan Castillo de Valle and Ygnacio Manjarrez, before we made them an offer for said property, which we finally purchased, paying the said owners, De Valle and Manjarrez, \$50,000 in gold coin for said mines, and \$7,000 in gold coin for their improvements, mining tools, furniture, and all other personal property belonging and appertaining to said hacienda, "San Nicolas," and its reduction works, making \$57,000 in gold coin, which we paid for said mines and property, into the hands of said Don Juan Castillo de Valle, for himself and as attorney for said Ygnacio Manjarrez, his partner, over the counter of the banking-house of "Echeguren, Quis-

tana & Company," of Mazatlan, Mexico, who paid to said owners for claimant, in my presence, the \$57,000, gold coin, said bankers accepting my drafts for the same, which were duly honored and paid upon presentation by them at San Francisco or New York, I do not now remember which.

By Mr. LINES:

Q. Mr. Garth, can you tell whether those drafts were drawn by Bartholow or not on your house?—A. I don't remember. I don't remember whether I authorized—after getting to New York and finding that the company was going to go along—it might be that I simply authorized Mr. Ralston, whom I was well acquainted with, to draw the draft. I don't remember the particular mode, but it is as certain as the sun shines, and that I am talking to you here, that the Bank of California received from the house of D. J. Garth & Co. \$50,000 in gold.

Q. For the payment of those mines?—A. I suppose the drafts would be among the checks. I don't know where they are now.

Q. Did the house of D. J. Garth & Co. do anything with the papers after it was wound up?—A. I don't know.

Q. Was it in the habit of getting its bank-book written up?—A. Everything in the house of D. J. Garth & Co. was done like clock-work. They owed nobody anything. I could not to-day, if I was to be crucified, tell where a scrap of paper or a book of D. J. Garth & Co. was. They settled up and paid everything, and they probably went to the junk-shop twenty years ago; fifteen or twenty years ago.

Mr. KENNEDY. One moment, I want to do what I did before. I want to object to a continuation of the examination in regard to the payment of the purchase price of the mine upon this ground: That the extract from the testimony of Bartholow that Mr. Lines has read concludes him—I would like to read just what Bartholow said, that the money was paid "in gold coin for said mine, and \$7,000 in gold coin for their improvements, mining tools, furniture, and all other personal property belonging and appertaining to said hacienda San Nicolas, and its reduction-works, making \$57,000 in gold coin which we paid for said mine and property into the hands of said Don Juan Costillo de Valle for himself and as attorney for said Ygnacio Manjarrez, his partner, over the counter of the banking-house of Echeguren, Quintana & Co., of Mazatlan, Mexico, who paid to said owners for claimant, in my presence, \$57,000, gold coin, said bankers accepting my drafts for the same, *which were duly honored and paid upon presentation by them at San Francisco or New York, I do not now remember which.*"

The CHAIRMAN. Whether those drafts were cashed at San Francisco by Ralston for the honor of D. J. Garth & Co., or whether they went right on to New York without stopping at San Francisco and were paid by D. J. Garth & Co., the testimony shows that they were cashed, and that concludes Mr. Lines, because he asked it himself.

Mr. LINES. I want to impeach this witness, and I think I have done it. We say it is perfectly immaterial whether they were cashed in San Francisco or New York. I think that the witness swore that they were cashed by him in New York, and I want to find out where in New York.

The CHAIRMAN. What is the question now before the committee?

Mr. LINES. None at all.

The CHAIRMAN. What is the objection?

Mr. KENNEDY. I supposed he was going on——

The CHAIRMAN. I can not rule upon the ground that you supposed he was going to do something. This is a cross-examination of this witness, and I have no disposition to shut off anything. Mr. Lines, have you any other testimony?

Mr. LINES. None on that point, Mr. Chairman.

The CHAIRMAN. On any other point?

Mr. LINES. I want to ask, as to these payments for the stock of the company, whether all payments that were made on the stock of the company by subscription did not come into the hands of Mr. Garth as treasurer?

The WITNESS. No, sir. Sidney Shackelford was treasurer previous—

Q. Hear my question as to time; you were treasurer in 1867 and 1868?—A. I don't remember the time. When Mr. Sidney Shackelford went back to Missouri; I don't remember what day of the month or day of the year.

Q. You signed the letters in 1867?—A. He had gone back to Missouri.

By Mr. KENNEDY:

Q. Now, about the subscriptions on the stock?—A. How much they paid I don't know.

Mr. KENNEDY. I was going to say to the chairman, if you will allow me, that after one counsel has gone so thoroughly into this same subject it is scarcely right for another counsel on the same side to begin and go all over it again.

The CHAIRMAN. He has been examined by three or four counsel on your side and two counsel on the other side, and I hadn't supposed that it was necessary to require one counsel to conduct the examination on either side; so that, if Mr. Lines has anything material to ask the witness, I will admit it.

Mr. LINES. It is important, Mr. Chairman.

Q. Were you treasurer in 1867 and 1868?—A. Yes, sir.

Q. At that time would any subscription for the sale of stock come into your hands naturally as treasurer; wasn't that a part of your duty?—A. Yes, sir; I suppose so. Everything was paid in; I suppose so.

Q. Can you say, as a matter of fact, that between January 20, 1868, and September 28, 1870, there was any money received by the La Abra Mining Company for subscription on stock?—A. Not to my knowledge.

Q. Now, I call your attention to the deposition of George C. Collins, on page 344. First I call your attention, and I will give you time to find it at the bottom of the page—

Mr. KENNEDY. To what, Mr. Lines?

Mr. LINES. Here are two documents which I wish you to compare; here is the annual report, dated January 20, 1868, to be found on page 118 of document No. 274, showing the amount of the capital stock actually paid in, \$157,000. Here is the deposition of George C. Collins, on page 344 of the present book of testimony, dated September 28, 1870; at the bottom of the page is the following: "Said company obtained from subscriptions for and sales of its stock \$235,000." Now, I want to ask you if there was \$78,000 paid into the treasury of that company between January 20, 1868, and September 20, 1870, for and on account of subscriptions and sales of stock?—A. Not to my knowledge, sir. I don't think there was.

Q. Then the statement of Mr. Collins, so far as you know—

The CHAIRMAN. No.

Q. Do you know what was the basis of the award to the company?

The CHAIRMAN. What do you mean by the "basis?"

Mr. LINES. Whether this \$235,000 of subscription as well as of stock—

Mr. KENNEDY. My objection to that is that the award itself is the best evidence.

The CHAIRMAN. Very well.

Mr. LINES. Let it go.

Q. Do you know of any stock having been bought except at par?—A. No, sir; I don't. I don't think there ever was.

Q. The par value was \$100 a share?—A. That was the par value.

Mr. LINES. That is all.

Mr. KENNEDY. Mr. Chairman, I have a very few questions.

The CHAIRMAN. Proceed.

By Mr. KENNEDY:

Q. What was the capital stock of the company—the nominal capital stock?—A. Now, I forget.

Q. Was it \$300,000?—A. I think it was in the neighborhood of \$300,000.

Q. When the stock was taken in 1865 or 1866, at the time the company paid for the mines, was gold at a premium?—A. A big premium; yes, sir.

Q. In 1877, when the annual report, to which your attention has been invited, and which is in evidence here, was made, was currency at or near par?—A. I think it was par. I don't remember, particularly, when we resumed specie payments, but I think it was. We had resumed specie payments in 1877. Yes, sir; I am pretty well satisfied they had.

Q. So that in the national currency of the country in 1877, the stock that was originally taken and paid for in gold had cost an increased amount by the difference, whatever it was, between gold, in which the subscriptions were originally made, and greenbacks?—A. Yes, sir; I think so.

Q. That is all on that point. Outside of your personal ventures, what was the volume of your business in 1865—say from 1865 to 1868?—A. It was very large.

Q. I just want to have you give the committee an idea.

The CHAIRMAN. Do you want to know what it was a day?

Mr. KENNEDY. No, sir; I want to show that he was a man of very large affairs in his own legitimate business, and to remove any cloud there may be growing out of his apparent indifference to this personal venture of his.

Q. In a brief, general way, will you state to the committee what the volume of your regular business was outside of your own personal ventures?—A. I should judge \$500,000 or \$600,000 a day in brokerage business, carrying four or five million of stocks.

Q. What was the average amount, as near as you can approximate it, of the deposits that you had from your customers?—A. Well, they went from \$500,000 to \$800,000. We did a very large business.

Q. Is it not a fact that your claim against the La Abra Company, the great bulk of it, is evidenced, first, by your shares—your certificates for stock; second, by your judgment that has been put in evidence; and third, by the note for 1,900 and odd dollars, to which you have testified?—A. Yes.

Q. Is it, or is it not, a fact that these smaller advances that you made, that you spoke of, from \$20 to \$50, were recorded in your firm's book by your cashier?—A. I don't think that the smaller amounts were. I don't know. Perhaps I might have had the money in my pocket, a small amount, or something of the sort, and paid it. I don't think they ever went in at all.

Q. Give the committee one illustration, a matter of fact, to show how those small advances of which you seem to have kept no record were made; that is, if you can remember one fact.—A. I hardly know, sir. I think that there was some money wanted to be raised once for printing some of the testimony—the Spanish—for translation. I think, perhaps, the attorney or whoever applied for it, that I paid \$50, or something of that sort, as my contribution. I don't remember—I don't think that was ever charged at all; things of that sort.

Q. Did you ever pay any of the counsel's expenses on to Washington?—A. Yes, sir; several times. I don't think there was any record made of that.

By the CHAIRMAN:

Q. How much counsel fees did you pay in that way?—A. It was not counsel fees; it was expenses on a trip to Washington.

Q. About how much?—A. Twenty-five or thirty dollars.

Q. For several trips?—A. Yes, sir.

Q. Did you make a memorandum of that?—A. I pulled it out of my pocket and paid it.

Q. Did you make a memorandum of it?—A. I did not do it. I do not know how it happened. It is the way that I have done a great many things, Senator Morgan.

The CHAIRMAN. This is a new matter, about currency and gold premium, and Mr. Lines can examine upon that.

By Mr. LINES:

Q. Do you happen to know what the premium on gold was in January, 1868?—A. I don't recollect now. I have no recollection of it now. I know it fluctuated from July—sometimes 10 or 15 points in a day more than at other times. Everybody who is familiar with the fact knows that it was oftentimes 150 one day, 155 the next, 125 the next and 180 or 200 the next.

Q. Do you happen to know what it was in September, 1870?—A. I don't recollect; no, sir, I could not tell you.

Q. Do you think that the difference between the amount stated in annual report of the company for January 30, 1868, as the amount of the capital stock paid in, \$159,000, and the amount, \$235,000, sworn to by Mr. Collins, on the 28th of September, 1870, is or was intended to represent the difference between the gold price in 1868?

Mr. KENNEDY. My objection to that is that it is a matter, first, of documentary evidence which can easily be ascertained from the gold tables; and, second, that it is a matter of computation and not one upon which the witness who has not examined the evidence should be required to make a guess.

The CHAIRMAN. Mr. Garth is an expert upon a question of that kind.

Mr. KENNEDY. He says that he does not remember.

Q. Do you think that the difference between the amount stated in the annual report of the company for January 30, 1867, as the amount of the capital stock paid in, \$157,000, and the amount, \$235,000, sworn to by Mr. Collins, on the 28th of September 1870, is or was intended to represent the difference between the gold price in 1868?—A. I think so, sir. I don't know. I think that was the explanation of it. I don't know. I don't say that of my own knowledge; I think so, but I don't know.

Q. I ask your attention to the report of 1868 again where there is the

statement of the existing debts of the company; the amount given is \$72,000.

The CHAIRMAN. What date?

Mr. LINES. January 20, 1868; and again from Mr. Collins's affidavit, "There has been advanced to and paid for said company \$64,291.06 more," that is in the addition to subscription and sales of stock.

Mr. KENNEDY. Yes, but not in addition to the debts.

Q. What do you know about the latter statement, whether it represented the indebtedness to the company in 1870 or not?—A. I presume it does. I do not know of my own knowledge.

Q. Then the premium on gold would have no influence on the debts of the company, although it might have on the sales of stock?—A. No, sir.

Mr. LINES. That is all.

By the CHAIRMAN:

Q. When did you see Mr. Ely?—A. I met him here on the afternoon that I went away from here; in October, I think it was.

Q. Is that the last time you have seen him?—A. I have not seen him since.

Q. Or heard from him?—A. I wrote to him when the Sergeant-at-Arms sent me word that he wanted me here the 7th of January, I think it was. At the same time when I wrote to Mr. Canaday, I advised Mr. Ely that I had been requested to be in Washington at that time, and simply stated that I supposed he would be here, and I have not seen him or heard from him since.

Q. You don't know where he is now?—A. I do not. I directed that letter to a place called Girard, in Pennsylvania. I think he is now at home. I do not know. I am told that his brother is dead, and that he is managing the estate there; so I have heard. There was nothing requiring any answer; it was simply the fact that it was supposed that he would be here.

The CHAIRMAN. Well, we will close the examination of this witness.

Mr. FOSTER. We should be glad to know if the counsel will indicate the time when they will be able to answer the request for the books and documents of the company, the accounts, etc., that are wanted.

Mr. KENNEDY. Our answer, Mr. Chairman, is a matter of record, and I may add that we have faithfully tried to get into communication with Mr. Ely; that he has been running about between New York and Girard, Pa., and I have no doubt that he will be here shortly, but I am unable to say when.

The CHAIRMAN. Mr. Kennedy, do you wish the committee to summons General Slaughter as a witness?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. As your witness?

Mr. KENNEDY. No, sir; I want to make a formal application for the committee to summon him, and the affidavit in support of that motion—

The CHAIRMAN. Have you those affidavits?

Mr. KENNEDY. I know they are in existence. I tried to get them of the other counsel, but I will see that it is done speedily.

The CHAIRMAN. It is about 500 miles from here to Mobile?

Mr. KENNEDY. Scarcely as much as that.

The CHAIRMAN. The committee does not understand that General Slaughter knows anything about the original transaction at all; never had the slightest indication of his having any knowledge of the facts of

this case except such as he derived from being an agent of Mexico, or one of the counsel in the case, if he occupied that attitude, and the committee therefore see no occasion for summoning him on behalf of the Government, or on behalf of the committee. Now, if you want to summon him as your witness, I desire to know it.

Mr. KENNEDY. Yes, sir, we do, if the committee upon the presentation of those affidavits still thinks as you indicate now.

The CHAIRMAN. If you want him summoned on that condition, you had better request it of the Sergeant-at-Arms.

Mr. KENNEDY. I do request it.

The CHAIRMAN. The committee will take under advisement and consider your application after he comes.

Mr. KENNEDY. I ask whether, under the ruling of the chairman, the suggestion from the Department of State that a consul's resignation will be accepted is such a fact as the law allows to impeach the credibility of a witness—

The CHAIRMAN. It is not the credibility of a witness, but the conduct of the consul, and when another man swears that that consul gives a certificate to a deposition that he did not make, and the consul swears that he did make it, it was considered by the Government of the United States a legitimate subject of inquiry.

Mr. KENNEDY. I am not going to discuss that point, Mr. Chairman, but I was trying to get at what our duty would be, submitting, of course, as we do to the ruling, and being satisfied with all of it, except that you do allow this particular fact in contravention—I say it with all respect—of what seems to be the well-settled rule of law, that you can impeach the credibility of a witness only by his general reputation for truth and veracity. Now, submitting as we do to your ruling, the question that I was going to venture to suggest to you was this, whether we shall now be allowed to prove the reputation of Consul Sisson for truth and veracity.

The CHAIRMAN. After these gentlemen on the other side go into the question of Dahlgren's testimony, I should say that you ought to be allowed to sustain this man by proving his reputation for truth and veracity, but I do not think the committee would be willing to indulge counsel very largely in a question of this kind.

Mr. KENNEDY. No, sir; we should not expect it.

The CHAIRMAN. The opinion of other men would not have very much impression after we have seen these men.

Mr. FOSTER. We have no intention of entering upon that question unless we are forced to.

The CHAIRMAN. Then that will end the question.

Mr. KENNEDY. Except, if the admission of this forced resignation of Sisson is any impeachment of him at all, and we think it is an impeachment of him, we just want to call two witnesses, one of them is in town now, to prove the reputation of the man where he lives for truth and veracity.

The CHAIRMAN. You can see that that would lead to an inquiry of this kind: Have you heard the ground upon which the Government dismissed him?

Mr. KENNEDY. No; I do not think the question would be proper.

Mr. FOSTER. The Senator has apprehended the point that I have tried to make from the beginning, that this is not a movement to impeach the veracity of this witness at all. It is to show his standing as an officer of the Government in discharging this high duty that was imposed upon him as between these two Governments, a selected magis-

trate, selected by the Government of the United States to do this thing, and the Government afterwards discredited him by acting as it did.

Mr. KENNEDY. I want to make it clear that if the fact that this ex-consul was forced to resign is going to be admitted in evidence as impeaching him in any way, no matter whether he was a magistrate or an ordinary or extraordinary witness, that we think the committee owes it to him to say that, so far as his testimony given here is concerned—that so far as his reputation for truth and veracity is involved—we shall have an opportunity to prove that it is good.

Mr. FOSTER. It is not involved.

Mr. KENNEDY. Oh, but I beg to differ from you. The law does not allow any such distinction as my friend Mr. Foster makes. It does not make any difference whether a witness is a consul or not. The law says that a witness can be impeached only in two ways, as I have read from Greenleaf, and both of those methods must touch the only vital question, namely, whether he is a credible witness.

The CHAIRMAN. Now, any Senator, in arguing this case, without any reference to anything that the committee have done at all, might inquire: Was he discharged from service? Yes. He could bring in this matter from the Department and read it, and it would have the same effect as if it were all put in evidence here. It is public property.

Mr. KENNEDY. Would it be fair, sir? I think my client has a serious right in this matter. Here is a statement that says, in the same breath that asperses Sisson, that our naval officers on our men-of-war—the same statement that would influence the mind of a Senator, *ex parte* and unsworn to—the same statement says that the officers and crews of our men-of-war down on the Mexican coast were there for the purpose not of protecting our citizens but of smuggling bullion. Now, my point is that if these statements are to be used in any way against the witness, if the mere fact of his forced resignation is put on record, it is properly there only for the purpose of impeaching the credibility of this witness in those respects where he is in conflict with Dahlgren. What is the issue? The issue is, which of the two men told the truth about the alleged blank sheet of paper. Did Dahlgren tell the truth or a lie when he said that he put his name on a blank sheet of paper?

The CHAIRMAN. If Dahlgren had never been put on the stand at all these gentlemen would have had the perfect right to have gone there and got the testimony to show that this man was dismissed from the Government service. It was a public act. It does not show the reasons of it, but it shows what the result was, that he was regarded by the Government of the United States as being an unworthy officer.

Mr. KENNEDY. It is not in proof that he had had any notice of those charges.

The CHAIRMAN. Whatever was done towards discrediting this man can be referred to. You can not discredit him, turn him out of office, and then say that he was immaculate. That will be the decision upon the proposition. Let it stand that way. I think that is right.

Mr. KENNEDY. Then, I understand that our offer to produce two witnesses to the reputation of the ex-consul for truth and veracity in his neighborhood will be rejected.

The CHAIRMAN. I do not say that I will reject it. But I think it is not correct practice on either side when the other side is not trying to impeach a man that you should try to sustain it. They are not trying to sustain Mr. Dahlgren, whom you brought this man to impeach, you know.

Mr. KENNEDY. I have not taken that view of Sisson's examination.

My judgment is that all the presumptions are in favor of Dahlgren's deposition. You know, without my stating, how it looks and how it is sealed; that all the presumptions are in its favor; and the man who is alleged to have made it says that, instead of making that deposition, he signed a blank sheet of paper. We bring the consul, who testifies here, to verify the presumption of fact in favor of that deposition. Now, you allow Mr. Foster to get into the record the fact that this consul was forced by the Department of State to resign. I say, if that is anything that the law will take any notice of, it is an impeachment of the witness in some respect or other; and I ask you, when you have received it, when you have allowed the fact of his forced resignation to go into the record, to allow us to bring simply two witnesses to testify to the good reputation of this man for truth and veracity.

The CHAIRMAN. That would not be any answer at all to the action of the Government. That is a public act. He might be a man of very good reputation and character, and still the Government act properly.

Mr. FOSTER. Mr. Kennedy, let me ask you, if you think his reputation is impeached, how will it remove that impression to bring the Congressman from his district, Mr. Ketchum, to testify that he is a man of good reputation in the neighborhood where he resides, when Mr. Ketchum knows nothing about the facts that have occurred at Mazatlan?

Mr. KENNEDY. My answer to that is this, that the issue between the two witnesses is, which is telling the truth in regard to Dahlgren's deposition? The law takes no notice of the official character of a consul or anybody else, so far as the methods of impeaching his credibility are concerned. If the witness is to be impeached at all, he is to be impeached in regard to his credibility, for that is the only fact involved in determining the value of his testimony. Now, I say that if the chairman allows the fact of the forced resignation of ex-consul Sisson to go upon the record, it is allowed not only for the purpose of impeaching or clouding his conduct as a magistrate, but also, and I think chiefly, to discredit him as a witness, and inasmuch as we have brought him here to corroborate that original deposition, and he is more or less impeached by the admission of the fact of his forced resignation, we ought to be allowed to bring General Ketchum, for any man of high repute who has known the ex-consul for many years—we ought to be allowed to bring those gentlemen here to testify as to the general reputation for truth and veracity of the witness.

The CHAIRMAN. Let them make out their affidavits and take them to the Department of State and file them there.

Mr. KENNEDY. I think that is an outside view of the subject.

The CHAIRMAN. No, I think it is a correct view of it. Any Senator could go to the Department of State and get the same facts certified to, and bring them to the Senate and use them there; they are public facts.

Mr. KENNEDY. Now, I would like to say a word on that point, because I see how the thing is running in your mind. These same letters testified to the high character and competency in every respect of Peña, who was the subscribing witness to Dahlgren's deposition.

The CHAIRMAN. Beyond a doubt.

Mr. KENNEDY. I simply desire to say—

The CHAIRMAN. I have never heard you when you were willing to stop.

Mr. KENNEDY. Then I won't say a thing more.

The CHAIRMAN. I say we will not go into that question. Mr. Slaughter is a man who professes to have had a good deal of connection with this case and the Weil case as an employé of some kind or other, for the

purpose of getting up testimony to show that these awards were incorrect and so on. His name has been brought into the depositions frequently when we have been speaking about interviews with the witnesses, and the like of that. It is evident that he does not know anything in the world about the original transaction. He was brought into the case after the awards were made, and has no personal knowledge about the case at all, at least about the La Abra case. I think he has some knowledge of the Weil case. Now, Mr. Kennedy asks that the committee summons him as a witness, and I say that I don't want to summons him as a witness because I don't know of any fact; in fact I know that there is no fact—

Mr. FOSTER. That is, on behalf of the committee.

The CHAIRMAN. Yes; on behalf of the committee. There is no fact that Mr. Slaughter could enlighten us about in this transaction, and I say to Mr. Kennedy though, if he wants Mr. Slaughter as his witness, to bring him here and the committee will take into consideration the fact that, he being employed by Mexico and considering all his relations to this case, we will indulge the examination as if it was a cross-examination, and will not hold them responsible for Slaughter's character because they summons him.

Mr. LINES. I desire to say about General Slaughter, who is a personal friend of mine, that I know everything that he knows about this matter, and my suggestion is merely that the counsel for the La Abra Company communicate to the chairman of the committee what it is expected to prove by General Slaughter. We do not care to know what it is. We have no objection in the world to his being summoned. I make that suggestion. I know General Slaughter to be a man who can not very well afford to leave his business at the present time.

Senator DOLPH. Where is he?

Mr. LINES. Mobile, Ala. That communication, of course, will be in confidence. We do not care to know what it is that they expect to prove.

Mr. KENNEDY. Mr. Chairman, would you permit me to respond to that suggestion?

The CHAIRMAN. Yes.

Mr. KENNEDY. Well, in a general way it is this, that a government seeking relief from an obligation of this sort should come into equity with its hands clean. That this Mexican Government, instead of approaching the United States in that way, has employed various agents, one of whom is the gentleman in question, upon contingent compensation to obtain evidence tending to impeach this award, and we expect to show that so far as General Slaughter has represented the Mexican Government in this matter various attempts have been made by persons claiming authority from him to obtain testimony—sworn depositions—of individuals for money, and we think that if the facts are as we have reason to suppose them to be they have a very vital and impressive bearing.

The CHAIRMAN. You expect to prove those things by General Slaughter?

Mr. KENNEDY. We expect to prove that he had a contract with somebody representing the Mexican Government under which he would obtain a large sum of money if he succeeded in getting testimony or evidence that would upset this award, and that in his attempts to earn his contingent compensation he or the agents whom he has employed have, with or without his authority, not only offered money to people for their testimony, but immunity where such desired testimony conflicted with testimony that those people had already given in the case.

The CHAIRMAN. Well, I think that Mexico is here for the purpose of setting aside an award.

Mr. LINES. Mr. Chairman, I will ask, supposing General Slaughter to be here, would counsel be permitted to ask that sort of a question of him, or whether he would be required to answer it. They would be criminating questions. I don't know. It is a question of crimination. I would be very glad to see him here myself. He is a good friend of mine.

The CHAIRMAN. I know him very well. We can not assume anything about it. Now, Mr. Kennedy, do you want him as your witness?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. We will order him summoned by telegraph, and bring him right along up. Have you got any other witness?

Mr. KENNEDY. Yes, sir; we want these two detectives that were employed in New York under Mr. Lines and General Slaughter.

The CHAIRMAN. Don't you think you have got sufficient evidence on that subject?

Mr. KENNEDY. No, sir. We have not got the letters that those detectives claimed to have from Mr. Lines and General Slaughter.

Mr. FOSTER. I did not understand. Is there any proof that the Government of Mexico employed two detectives?

Mr. KENNEDY. Of course, we can not decide now what is in this matter. I am only indicating the line on which we expect to use the witnesses.

The CHAIRMAN. I listened to that testimony with attention, and it was all taken down in writing, and presented the whole facts at the time, being sworn to by Mr. Kittelle, that was a reference to the pronunciation of his name, and should be omitted, and it did seem to me that the examination was thoroughly exhausted; that you could not get another fact out of it at all, squeeze it as you might. The detectives were employed by somebody for the purpose of getting some testimony from Exall, and this witness could not say whether the testimony they wanted was false or true, documentary or oral, and they were willing to pay a round sum of money for the right sort. I do not see how the bringing of the two detectives here can be of any material consequence.

Mr. KENNEDY. Well, if he told the truth, one of those detectives had a letter from Mr. Lines in which the various points on which Exall was desired to contradict his previous testimony before the commission were stated, and, if Kittelle told the truth, those detectives claimed they were backed by Zamacona, the Mexican minister, and General Slaughter and Mr. Lines, and offered a large sum of money for the desired testimony, and also promised immunity for any conflict that there might be between the original deposition of Exall and the deposition that was desired of him. Now, my purpose in asking to have the detective summoned would be to examine them on that point, and to have them produce any letters that they had received from Mr. Zamacona or Mr. Lines describing the testimony desired, and indicating what the Mexican Government was willing to pay.

The CHAIRMAN. I asked the witness to state particularly, if he could, to the committee if there was any proposition there from Mr. Lines in regard to any particular testimony, whether oral or written, and he did not have any recollection of it at all; he said he couldn't state it at all. I asked him then if he would have not remembered it at the time, the proposition, and he said he would not. It was to the effect that Lines said to a detective, "If you get Exall to unswear what he did

before, and to produce certain papers, I will pay you so much." This witness, put there in that attitude for the purpose of finding out what Lines had been doing, would certainly have remembered—would have sworn to it and left it in the possession of Ely, who seems to be away now. It seems to me that all that is exhausted, and I do not feel as if I was depriving you of the slightest right in the world. I don't know that I would not consent to summoning those detectives. When you commence to run out, there is no telling where the case would end. I think you ought to make a sworn statement about it.

Mr. KENNEDY. I will do so at the proper time. I think we ought to have an opportunity to obtain the letters, if any, that were sent to this man.

The CHAIRMAN. Have you ever tried to get them?

Mr. KENNEDY. No, sir.

The CHAIRMAN. Perhaps you can get one without examining the witness here.

Mr. KENNEDY. We will try to.

Senator DOLPH. Did the detectives obtain any testimony?

The CHAIRMAN. Not at all.

Senator DOLPH. This would not effect any testimony in the case directly?

The CHAIRMAN. Never got a bit.

Mr. KENNEDY. I want to say in reply to the suggestion of Senator Dolph, or inquiry, whether those detectives obtained any testimony, that our theory of that proceeding was that there was an attempt on the part of the Government that is seeking relief from the award to induce Mr. Exall, whose deposition had been taken and submitted to the Commission, and who had been quite an important witness in the case, to repudiate what he had already sworn to, by offering him a pecuniary reward. The Chairman has said, if I did not misunderstand him, that if the Mexican Government, through its authorized agents, did anything of that sort in a proceeding of this kind, it is important that that fact should be developed.

The CHAIRMAN. You would have to connect it with something sworn to here.

Mr. KENNEDY. The fact is, Kittelle swore that one of the detectives read him a letter, or part of a letter, alleged to be from Mr. Lines, specifying the precise points upon which new testimony was desired from Exall in contradiction of his former deposition.

The CHAIRMAN. He said just the other way—that he could not specify the points.

Mr. KENNEDY. He said the letter specified the points, but that he could not remember the letter.

The CHAIRMAN. He said that he did not remember what the letter contained.

Mr. KENNEDY. He said that the letter specified the points upon which new testimony was desired from Exall. Now, I say that if that is true—and I am not saying it is true—I say that if that is true, that letter or any other letter of the same sort should be produced here.

The CHAIRMAN. Suppose, on other the side, that these gentlemen should insist that all your correspondence with Ely and the other gentlemen in New York, as counsel in the case, and the contract, whether contingent or otherwise, should be examined into? Why, you would think the committee was engaged in rather a small business in regard to that.

Mr. FOSTER. That is no reflection on the counsel for La Abra Company, is it?

The CHAIRMAN. No.

Mr. FOSTER. They have pursued our private correspondence pretty vigorously.

Mr. KENNEDY. I don't want to say anything offensive to anybody, but I would say if anybody charged me or intimated that as counsel for La Abra Company I had written a letter to anybody, offering money to him to change his testimony and immunity for his perjury, that I would insist that letter should be produced.

Mr. LINES. If anybody charged me with that, I would say that he was a liar.

Mr. KENNEDY. Yes. Now, this witness, Kittelle, did say in so many words that he heard this letter read from Mr. Lines.

Mr. LINES. No; he did not. He said he heard a letter—portions of a letter—which the person who read it stated was from me.

Mr. KENNEDY. That is right.

Mr. LINES. I asked him if he examined the signature of the letter, if he examined the body of the letter, and he replied no. I asked him if he would recognize the handwriting of the letter, proposing to give him a specimen of my handwriting, and he said no, and I thought it worthless to use up the time of the committee further. I did not think that I was required to take any notice of it.

Mr. KENNEDY. There are letters introduced as from Mr. Lines—

Mr. LINES. One—

Mr. KENNEDY. In which Mr. Lines says, in so many words, that he has his agents in New York, and that they are trying to get Exall to purge himself; that Exall is undoubtedly weakening. I would just like to—

The CHAIRMAN. I do not know when this thing is going to stop. I can not spend all my life upon it.

Mr. LINES. I am ready to go on the stand any time, and I am proposing to, so that both sides can cross-examine me.

Mr. KENNEDY. I should like to have those two witnesses subpoenaed.

The CHAIRMAN. You will get the letters if you can?

Mr. KENNEDY. We will get the letters if we can.

Senator DOLPH. Is Garth's testimony concluded?

The CHAIRMAN. Yes, sir. Everything is through now, except General Slaughter and the two witnesses that Mr. Kennedy wants. The two detectives I don't think we ought to have summoned. We can have General Slaughter telegraphed to come here. Mr. Foster, have you any witnesses on your side?

Mr. FOSTER. In answer to that we state that we had hoped that Mr. Sundell would be here. He reported that he was in poor health, and that he would leave as soon as he could. We have no notice that he has left. We shall probably be unable to get him.

Mr. KENNEDY. Interrogatories and cross-interrogatories have been prepared and can be forwarded to him.

The CHAIRMAN. The difficulty about that is that I understand that Sundell is in Mexico. I do not see that we have any authority to appoint a commission under the resolution or go outside of the country.

Mr. FOSTER. It is very desirable to have his testimony, but we would not delay the work of this committee a day on account of it.

The CHAIRMAN. Then, so far as your testimony is concerned, I understand that you do not wish any further adjournment of the case on that account?

Mr. FOSTER. Not on that account.

The CHAIRMAN. Have you any other witness?

Mr. FOSTER. No, sir.

The CHAIRMAN. Have you any further documentary testimony?

Mr. FOSTER. No, sir. We may have some before the committee adjourns.

Mr. KENNEDY. Mr. Chairman, we would like to have Sisson's interpreter and clerk summoned.

The CHAIRMAN. Where is he?

Mr. KENNEDY. He is in San Francisco.

The CHAIRMAN. You make up interrogatories to him and we will send them out there.

Mr. KENNEDY. Yes, sir. We will do as you wish in that matter; but there is such a conflict between Sisson and Dahlgren, and it is important that he be here.

The CHAIRMAN. He would be a proper witness.

Mr. KENNEDY. I think you might prefer to have him subpoenaed.

The CHAIRMAN. The time is too short.

Mr. FOSTER. So far as the production of witnesses is concerned, I have been acting on the presumption that the investigation was going to close sometime.

Senator DOLPH. If you send off a commission now we will have to have the time extended, won't we; or does it run indefinitely?

The CHAIRMAN. No, sir.

Senator DOLPH. We could not get a commission back now in time. I do not remember the language of the resolution, but I hardly think —

Mr. LINES. It seems to me that the Committee on Foreign Relations, charged with this inquiry, is a continuing committee, although its membership may be changed.

Senator DOLPH. The committees will be reorganized every session, and I suppose our authority would die.

Mr. LINES. I know of many cases in which the committees have been continued by resolution of the Senate after the 4th of March, carrying it into the next Congress, the Senate in one Congress authorizing the committee to sit in the succeeding Congress.

Mr. KENNEDY. This examination of Dahlgren only occurred a little while ago, and we feel that the man who was present and who is alleged to have read the deposition to Dahlgren ought to be here. We have moved in that matter as fast as the other side has developed its theory of the case, and I would like to have him before the committee so that the committee could see him.

The CHAIRMAN. Peña is the man who took down this deposition in his handwriting, although the signature was not in the same handwriting as the body of the deposition. Dahlgren swears that that deposition was not signed by him. He says that he signed certain other straggling sheets of paper—numbers of them—upon which his deposition had been taken down by Peña with an agreement with Sisson that they would be copied out on that paper, and signed a blank sheet of paper about the center and left it there with his signature to that, relying upon the honor of Sisson to do it in that way, and, being called away, went away immediately. Sisson says that he did go away immediately, but he says that before he went away he signed it then and there; that Peña witnessed it, and he put his certificate to it.

Senator DOLPH. Do you know what Peña is doing in San Francisco?

Mr. KENNEDY. I understand he is a teacher of languages.

Mr. FOSTER. You can not infer anything from what Sisson said, that he is now in San Francisco. I have been acting on the presumption

that we were going to come to an end of this investigation, but if we are going to run it along there are a number of witnesses that we would be very glad to have before the committee; but I have acted upon a different presumption.

Mr. KENNEDY. As Mr. Foster has developed his case, we have had to follow him, and it is clear that Peña ought to be examined.

The CHAIRMAN. Have you any correspondent in San Francisco to whom you can telegraph to-night, and ascertain whether Peña is there or not?

Mr. KENNEDY. Shellabarger & Wilson have.

The CHAIRMAN. I wish you would attend to it this evening and inform us in the morning of the result of the inquiry. There will be nothing for us to do to-morrow, except I want to look over this matter before some printing is done. I want to have it all written out and the part of it printed that I ruled in to-day. The balance I will rule out and reserve for the action of the committee. They may change my rule upon this. I do not know. They may change the whole of it. Mr. Dolph was not here to listen to the whole controversy, and it will be written out and examined.

You will see, Senator Dolph, when you come to examine the deposition of Dahlgren, that he not only denies the statements that he made there that were sworn to, saying that they were not true, and that there are a good many things stated there that he could not have known anything about.

Mr. FOSTER. For instance, there are names given there that he never heard of.

The CHAIRMAN. He may have signed that deposition after it was written out, and after having heard it read, and yet, he may say, and say truly, that the deposition did not present truthfully what he testified to, and did not present the facts.

Senator DOLPH. I understand that it is claimed that Peña did the writing, and if additions were made to it—something written out—this man Peña must have done it?

Mr. KENNEDY. Yes.

Senator DOLPH. If Peña should appear to be a man of good character and truthful, and come upon the stand and say that that deposition was the way the witness gave the testimony, it would be valuable as impeaching Dahlgren; but if he was a man that would become a party to it—would falsify a deposition under an arrangement with Adams to do that thing, then you would naturally expect that he would deny that also?

Mr. KENNEDY. Yes, sir.

The committee hereupon adjourned, subject to the call of the chairman.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 21, 1889.

The committee met pursuant to call. Present, Senator Morgan (chairman); Hon. John W. Foster and Mr. Robert B. Lines of counsel for the Government of Mexico, and Hon. J. M. Wilson and Mr. Crammond Kennedy of counsel for La Abra Silver Mining Company.

TESTIMONY OF THOMAS FISHER.

THOMAS FISHER sworn and examined:

Mr. LINES. Mr. Chairman, before the examination of Mr. Fisher commences I want to put on the record briefly what perhaps does not appear elsewhere in the record as relating to the testimony of Mr. Garth the other day. That is, the fact that the award to this company was in Mexican gold. The object of doing that is to bring it out in connection with Mr. Garth's supposition that the increase of stock subscription between 1868 and 1870, as shown by the report of 1868 and Collins's testimony in 1870, was due to the premium on gold.

The CHAIRMAN. Where do you get that fact, Mr. Lines?

Mr. LINES. From Ex. Doc. No. 31 second session Forty-fourth Congress, which is a report from the Secretary of State of the proceedings of the United States and Mexican Joint Commission.

The CHAIRMAN. That has not gone into the record?

Mr. KENNEDY. Yes, sir—if Mr. Lines will pardon me—it is printed *in extenso* in the volume with the double columns, and under a ruling of the committee all the officially-printed records are made part of this proceeding, as I understand.

Mr. LINES. I do not understand that the fact that the award was made in gold appears.

Mr. KENNEDY. Oh, yes. It appears that Sir Edward Thornton's award was made in gold.

The CHAIRMAN. Well, it will be considered in the record at all events. Proceed with the examination of Mr. Fisher.

By Mr. LINES:

Q. Give us your name, age, residence, and occupation.—A. Thomas Fisher; fifty-four years old; 372 West 55th street, New York City, and in the employ of the New York and Manhattan Elevated Railroad Company.

Q. What was your occupation about the beginning of the year 1878?—A. I was in the employ of the New York Stock Exchange, I think, at that time; I was in the employ of Sampson, who was the chief officer of that exchange.

Q. Now, I want you to go ahead, Mr. Fisher, with the permission of the chairman, and state your best recollection of—first, any interviews had with myself or with General Slaughter, of Alabama, touching the procuring of evidence, or any other matters connected with the award to La Abra Mining Company; and, second, what instructions were given to you, if any; and, third, what steps you took under those instructions.

By the CHAIRMAN:

Were those instructions in writing?—A. No, sir.

Q. Contained in correspondence, or did you derive them from personal interviews?—A. Personal interviews.

Mr. KENNEDY. Mr. Chairman, would it not be better to examine the witness in the ordinary way instead of asking comprehensive questions like that?

The CHAIRMAN. Oh, well, we will try and get at the answers, Mr. Kennedy. Proceed to answer the first question. The stenographer will read it.

Stenographer read the first question, as follows:

Q. (By Mr. Lines.) State your best recollection of, first, any interviews had with myself or with General Slaughter, of Alabama, touching the procuring of evidence or any other matters connected with the award to La Abra Mining Company?

By the CHAIRMAN:

Q. Let me ask you first, Mr. Fisher, did you have any interview with Mr. Zamacona on the subject?—A. I recollect that I did once. I met him once.

The CHAIRMAN. We will have that separately, then. Now proceed to answer the question.—A. Well, I met Mr. Lines in New York on two or three occasions and talked this matter over in relation to a man by the name of Exall. It is pretty hard for me at this time to state what transpired between Mr. Lines and myself, but my recollection of the interviews at that time is to the effect that Mr. Exall had testified in this case, and the belief was that he had not testified correctly.

Q. That was the supposition on which you were acting?—A. Yes, and I was to make the acquaintance and find out if possible from Exall what the facts were; take means to do that. I made the acquaintance of Mr. Exall and had a number of interviews with him.

By Mr. LINES:

Q. Before you pass from the interviews with myself please state what was stated to you as the object of these inquiries in the first place?—A. The object had been that there had been an award to this mining company against the Mexican Government, my recollection is \$800,000, I think.

Q. Well, never mind the amount.—A. A large amount any way, and that that money was held by the United States Government, I believe, subject to final decision in the case, and the idea was to find out if the evidence that had been given was correct, or whether there had been a fraud perpetrated on the part of this company.

Q. What was the immediate object with reference to Exall?

By the CHAIRMAN:

Q. As stated to you.

By Mr. LINES:

Q. As stated to you.—A. Well, I understood that the object was to—

Mr. KENNEDY. One moment, please; if it was Mr. Lines that told you anything, just please say as near as you can what he said, not what you understood.

By the CHAIRMAN:

Q. Yes, that is the only way to get at it. Give your best recollection of what was said, Mr. Fisher.—A. Oh, I have not as clear a recollection of what Mr. Lines said as I have of what General Slaughter said.

By Mr. LINES:

Q. Well, let us pass to General Slaughter, then. Was your interview with General Slaughter prior to or succeeding the first interview

I had with you?—A. It was after I had seen you. I had seen you a number of times. I went to Mr. Yamacona with General Slaughter, I believe.

By the CHAIRMAN:

Q. Here in Washington?—A. No; it was in New York.

Q. Now, let me ask you: Was this interview that you are about to speak of with General Slaughter before you saw Exall?—A. Oh, no; I had seen Exall.

Q. Before that?—A. Yes.

Q. Did you see Exall after that?—A. I think I did.

Q. So you had seen Exall both before and after this interview between you and Slaughter you are about to speak of?—A. That is my recollection.

Q. Well, you can proceed now. Just give your best recollection of what occurred between you and him.

By Mr. LINES:

Q. As to the object first.—A. I had had a number of interviews with Exall previous to seeing General Slaughter, and at these interviews Exall had led me to believe that he had some valuable papers in his possession—documents that were valuable to the side that General Slaughter represented—and he insinuated a great deal about them, and said he had had them a number of years. One thing I remember he said: he had them a number of years and was about to destroy them. My recollection is that he was boarding with Kittelle at the time, and he was about to destroy them, and Mrs. Kittelle said: "You have had them a number of years and I would not destroy them; they may become valuable yet," and Mr. Exall gave me to understand that these documents were very valuable to General Slaughter, and in relation to those papers I had a number of interviews with him. I then stated to General Slaughter about what Exall had said. General Slaughter's idea was—

Mr. KENNEDY. Please say what he said rather than his idea.—A. Well, General Slaughter then gave me instructions to get, if possible, the facts from Exall for the purpose of fastening the perjury upon him. General Slaughter's idea was that he had perjured himself in this investigation and that he wanted the facts, and the production of these papers would probably establish that fact, and he spoke about having him indicted in the United States court in case he did.

By Mr. LINES:

Q. As the main object of his employment of you?—A. That was the main object.

By the CHAIRMAN:

Q. Now, Mr. Fisher, I think we will get at the real fact in this case best by your going over the several interviews you had with Exall just in your own way. State your best recollection of each of them, and when they occurred, and where they occurred; you have stated already the purposes.—A. My recollection is that I met Exall first in the exchange room—not in the stock exchange, but a kind of an outside exchange on Broadway where we used to meet, an exchange room, and I met Exall there first. I met him there a number of times; he used to go there. I guess he operated somewhat in stocks, and there is where the principal interviews that I had with Exall, and it was on those occasions that he, in a roundabout way, would speak about the value of these papers he had in his possession, and I remember he distinctly

said at one time that the papers that he could furnish would be worth \$25,000, I think it was. He says:

If they knew what I had they would not object to give \$25,000 for them.

Well, this Exall was a stranger to me; I did not know anything about him, and in the course of that interview I learned that he had been connected with Knickerbocker & Co., bankers, New street, and I knew Knickerbocker & Co. very well; I went there to ascertain what I could in relation to him.

Mr. KENNEDY. Mr. Chairman, we ask that the witness shall be instructed that he shall not say what Knickerbocker & Co. said.

The CHAIRMAN. Oh, he is not going to say anything of that, I suppose. Proceed, Mr. Fisher.

A. Well, I don't remember that there was any more than simply meeting there and talking in relation to these documents. There never was anything came of it, and there never were any documents produced. I think I met him five or six times and nothing came of it, and finally a man named Kittelle pretended to be in the interest of Exall; my recollection is that the first time I met him was in Nassau street.

By the CHAIRMAN:

Q. Kittelle, you mean?—A. Kittelle, and he wanted then to negotiate in the interest of Exall for the purchase of these papers, and I had very little to do with Kittelle; I did not like the way he acted, particularly, and I had not anything to do with him and very little to say to him. I think I met him on two different occasions—my recollection—I may have met him three, and, I think, employed a person to find out who Kittelle was.

Q. Who did you employ?—A. A man by the name of Weed.

Q. You set him to find out who Kittelle was?—A. Yes.

By Mr. LINES:

Q. Did you employ Mr. Weed for any other purpose, Mr. Fisher?—

A. No, sir; I did not.

Q. Did Mr. Weed make any reports to you about anything else except as to who Mr. Kittelle was?—A. Now, I have no recollection that Mr. Weed ever reported to me anything about any matter except in relation to Kittelle, and I think that Weed had an interview with Kittelle. I think that he met him and talked with him.

Q. Now, Mr. Fisher, if you have finished——A. Yes, that is all.

By the CHAIRMAN:

Q. Let me ask you, before you go any further, did you ever make any offer to Exall of a sum of money for these papers?—A. I never did; no, sir.

Q. Were you ever authorized by anybody to do so?—A. No, sir.

Q. The sum of \$25,000, of which you make mention, was a sum that Exall said the papers would be worth?—A. Yes.

Q. If the contents were known to La Abra Company?—A. He did; and Mr. Kittelle said, from his knowledge of them, they would be cheap at that price.

Q. Twenty-five thousand dollars?—A. Yes.

Q. Then, did you insist upon seeing the papers?—A. I said that if they would produce the papers and show what the papers consisted of, what they related to, and they were valuable, that the parties might treat for them or negotiate for the purchase of the papers, but I said unless they knew what they were there was no use talking about any price or negotiating for them.

Q. In all of these conversations that you had with Kittelle and with Exall did you make the suggestion to Exall or to Kittelle that he could receive money for unswearing what he had sworn to before the commission?—A. That Exall could?

Q. Yes.—A. No, sir; I never gave Mr. Exall to understand that he could—well, I never gave him to understand that he could receive any amount of money. I may have given him to understand it would have been of advantage to him.

Q. To do what?—A. To make known the facts in relation to this matter.

Q. In the form of a deposition, affidavit, or how?—A. I don't know as it ever got so far as that. I don't recollect that there was anything said about an affidavit. My principal object was to get from Exall a statement of the facts. The impression that I had, and the impression that General Slaughter had given me, was that Exall had testified falsely about this matter, and my whole object was to draw from Exall all the facts, with the idea that he could clear the whole matter up; that he had in his possession facts—

Q. By facts do you mean now matters resting in his personal recollection as well as documents?—A. Yes.

Q. Both?—A. Yes; I was given to understand that he probably knew as much about it as any other man did; that he was one of the officers of the company.

Q. And you were acting on the supposition that you had derived from General Slaughter that Exall had not correctly stated these facts in his depositions?—A. Certainly; General Slaughter was very anxious to obtain these facts for the purpose of having him indicted. General Slaughter had not any doubt that he had perjured himself; given false testimony.

The CHAIRMAN. General Foster, I want to leave this examination for a little while in charge of yourself and Mr. Wilson, if you and he consent to it. I have got to go down to the Committee on Indian Affairs on a very important matter, and you gentlemen can state any objections to any questions asked by Mr. Kennedy and Mr. Lines. State them on the record and I will pass upon them when I return.

By Mr. LINES:

Q. Now, Mr. Fisher, I want to draw your attention to a distinction between papers and documents and oral testimony, affidavits, depositions, or anything of that kind, and to ask of you whether, in any of the interviews which you had with General Slaughter or with myself, you were instructed or requested to seek to obtain from Mr. Exall any oral affidavit or deposition, or whether whatever was said to you on that subject was confined to the matter of documents and papers?

Mr. KENNEDY. The objection to that is it is a leading question.

Mr. LINES. Answered by yes or no, you think?

Mr. KENNEDY. Yes; I think it could be answered by yes or no, substantially.

Mr. WILSON. That is not the test of a leading question.

Mr. LINES. I know; it is one test.

Mr. KENNEDY. Well, it is a test that puts the desired answer to the witness so that he can not make any mistake about it.

Mr. LINES. Well, Mr. Kennedy, did you want him to make any mistake about it?

Mr. WILSON. Well, just put the question. Let it go right along with the note that objection is made to it.

Mr. LINES. The question will be read.

(Stenographer read the question, as follows:)

Q. Now, Mr. Fisher, I want to draw your attention to a distinction between papers and documents and oral testimony, affidavits, depositions, or anything of that kind, and to ask of you whether in any of the interviews which you had with General Slaughter or with myself you were instructed or requested to seek to obtain from Mr. Exall any oral affidavit or deposition, or whether whatever was said to you on that subject was confined to the matter of documents and papers.

Mr. WILSON. I will add, the question was further objected to because the only proper form of the question was to ask the witness what was in fact the man requested to do.

By Mr. LINES:

Q. Now, I will ask you, Mr. Fisher, what you were in fact requested to do?—A. Well, I could not remember whether I was confined to any particular course. I think the instructions were in a general way to ascertain from him what the facts were. I have no recollection that there was anything said on that point about getting affidavits. The first intimation of documents came from Exall himself. The first that I ever heard in relation to there being any papers or valuable documents in existence came from Exall himself.

Q. How?—A. In the interview with him.

Q. Well, what sort of an intimation did he make?—A. Why, he spoke about having—that he had—valuable papers relating to this matter that he had had in his possession a number of years, and that he was about to destroy them; that is my recollection; and he was persuaded not to do it on the ground that if he kept them they would become valuable, and on the strength of that he had kept them; he had them in his possession. That was his story to me; had them in a box.

Q. Do you remember whether there was or was not any request or instructions to you to try and procure any affidavit or deposition from Exall?

Mr. WILSON. The question is objected to because it is suggestive to the witness, and especially in the light of the questions that have heretofore been asked.

Mr. LINES. Well, I will withdraw it if you will ask it on cross-examination.

Mr. WILSON. Well, I don't know whether we will cross-examine him or not. You had better not trust to us to bring out your evidence.

By Mr. LINES:

Q. Did you ever receive any instructions from General Slaughter or myself as to purchasing any papers from Exall or from any other person?

Mr. WILSON. The question is objected to, because the only proper question that can be asked the witness is to ask him what instructions were given to him.

By Mr. LINES:

Q. Well, you can go on and answer the question, Mr. Fisher. It is objected to.

The WITNESS. What is the question?

Q. Well, what instructions, if any, were given you?—A. In relation to Exall?

Q. In relation to procuring documents from Exall?—A. Well, it is a pretty hard thing for me to say what instructions were given. I can not remember that there were any instructions given me at the time, except to ascertain from Exall what the facts were in relation to this,

and find out, if possible, what these papers and documents that he professed to have were—what they related to. I don't remember of any particular instructions given me at the time.

Q. Were you authorized to offer him anything?—A. I never was. Of course I reported and told General Slaughter what he had said and the amount that was mentioned. That was talked over, and General Slaughter distinctly said to me that he did not want to negotiate for a thing, or did not want any proposition made, unless he knew just exactly what were in his possession—find out what he had in his possession.

Q. "The amount mentioned." By that do you mean the \$25,000?—A. Yes.

Q. Mentioned by Exall?—A. Mentioned by Exall and Kittelle both.

Q. Was there any formal offer on the part of Mr. Exall or Mr. Kittelle in relation to the sale of documents, if so, what was it?—A. Yes, there was on the part of Exall.

Q. Please state what it was.—A. Mr. Exall proposed—

Mr. KENNEDY. Just say what he said.

The WITNESS. Well, Exall said that if there was an offer made of \$25,000 for these papers and documents that he had he would produce them, or that was what he said in substance.

By Mr. LINES:

Q. What did you say in reply to that, Mr. Fisher?—A. Well, my recollection is that I told him that—that I tried to get from him what they consisted of—what they were—and told him—I don't recollect exactly what I told him. I know that was the object, but I can not remember at this time what I did say to him, but the object was to find out from him what they related to, what the value of them was, what the nature of the documents was; that was the object I had in view at the time. I recollect him distinctly repeating that they were cheap if they knew as much as he did—knew these documents as well as he did—they would be apt to give \$25,000 for them. He repeated that a number of times.

Q. Well, now, with regard to depositions or affidavits, I want to get your best recollection as to what, if anything, passed between you and Exall on that subject; was there anything?—A. I don't recollect that there was. I don't think it came to that. I think that my interview with Exall was confined principally to these papers and documents. I can not remember that there was anything ever said about making an affidavit, because General Slaughter was so anxious to get to the bottom of this matter in relation to Exall, was so firmly convinced, appeared to be—

Mr. WILSON. Don't say that—that will be ruled out.

By Mr. FOSTER:

Q. Well, what did he say to you on that point—the substance?—A. Who; General Slaughter?

By Mr. LINES:

Q. Yes.—A. That he wanted the evidence of Exall's perjury and to have him indicted in the United States court. That is what he wanted; that is what he said distinctly.

Q. What did General Slaughter say to you, if anything, as to any expectation of getting evidence out of Exall's mouth to convict him of perjury?

Mr. WILSON. That is objected to likewise.

Mr. FOSTER. Well, we will have to overrule that objection.

The WITNESS. I don't remember that General Slaughter gave any instructions to get it in any particular way. The object was to get it. I don't remember whether—

Q. To get evidence that would convict Exall of perjury?—A. Yes.

Q. Now, Mr. Fisher, in these conversations which you had with Exall or Kittelle did you say anything to either of them as to any protection to be afforded to Exall from criminal prosecution?—A. No, sir; I don't remember that I ever did. I don't think I ever did.

Q. Well, are you sure about it?

Mr. WILSON. Well, do not say that. That I object to.

The WITNESS. No; I have no recollection of any such thing taking place. I don't remember that there was any such instructions given me, and unless there had been I should not have given them.

Q. Was there, at any interview with Exall and Kittelle, at which you were present, any letter read to either of them purporting to come from me?—A. No, sir; I have no recollection of ever having received a letter from you.

Q. Do you remember ever having seen a letter from me in the hands of Mr. Weed?—A. I never did.

Q. Did you ever know that Weed had any such letter?—A. I never did.

Q. Was there any interview between you and Exall or Kittelle, or both of them, at which Weed was present?—A. I don't think there ever was.

Q. Do you know whether Weed ever had any such interview with Exall or Kittelle?—A. I never knew that he saw Exall. I knew that he had seen Kittelle. That is my recollection, that he had told me that he saw Kittelle, but I have no recollection that he ever saw Exall.

Q. Now, do you remember ever having in your possession any letter purporting to have been written by Exall?—A. I believe I did.

Q. State what it was, please.

Mr. KENNEDY. Well, you do not mean to state the contents of the letter?

By Mr. LINES:

Q. No; I mean to state the circumstances under which you received it, and the use you made of it?—A. My recollection is, the object was to get Exall's handwriting.

Q. Get a comparison of Exall's handwriting?—A. Yes; I forget now how it was it was got.

Q. Who gave you the letter, Mr. Fisher?—A. Well, I could not say. I don't remember. I remember there was something about a letter, but about the particulars of it I can not say now.

Q. Well, do you remember what you did in order to get a comparison of Mr. Exall's handwriting?—A. No; I remember there was something done, but I don't remember what it was now.

Q. Do you remember going to anybody on the subject?—A. It is possible that that was part of the object I had in going to Perkins.

Q. What Perkins is that?—A. Knickerbocker & Perkins, brokers. I don't remember about that letter business. It has dropped out of my memory somehow or another. I don't recollect. There was something about a letter, but I can not recall it now. It is a good while ago since those things happened. I recollect there was something in relation to a letter and about his handwriting. I think Exall was written to, and answered it—my recollection is, but I could not say about that. I forget about it.

Q. When did this employment or engagement of yours cease?—A. Oh, I think it transpired in 1878 and ran into 1879—1878 and '79. I don't know exactly; somewhere along there.

Q. Have you paid any attention to the matter since that time?—A. I have not. I have not paid any attention to it, at any rate, since Exall's death.

Q. Have you ever seen General Slaughter or myself since that time?—A. I never have.

Q. Had any communication with us?—A. No. I don't think I have heard of the case since—certainly since 1880, until within the last day or two. That is my recollection.

Q. Did you get any papers from Exall?—A. I never did.

Q. Did you get any from Kittelle?—A. No.

Q. Was anything said to you by Kittelle about any knowledge of his of these papers?—A. Yes.

Q. What was it?—A. He said he knew of the papers. He said he was as familiar with the papers as Mr. Exall was.

Q. What did he say as to his relations to Mr. Exall in this matter?—A. Well, my recollection is that he said that Exall boarded with him. That is my recollection. I can not be exactly positive on that point, but my recollection is that Kittelle said Exall boarded with him at the time, and that he knew about these papers, and that it was Kittelle's wife that persuaded Exall not to destroy them; that it was in Kittelle's house. That is as I remember it.

Q. Do you know how Mr. Exall was employed at that time?—A. I don't think he was employed at all. It is my recollection he was in this stock exchange—this branch stock exchange—there in Broadway. They used to have an opposition stock exchange room and I used to see him there. I don't know whether he was regularly employed; he may have been.

Q. Do you know whether or not he left New York shortly after these negotiations?—A. No, I do not; I don't remember. He died. I think the next I heard of Exall was he died very suddenly. That is what I remember, at any rate.

Q. Mr. Fisher's memory does not appear to be very good?—A. I had memoranda at the time, but I moved and destroyed things and put them in the store-house, and have no means of refreshing my memory.

Q. No means of refreshing your memory since?—A. I have not. I have looked, and have not the scratch of a pen that I can find, or memorandum of any kind. I have broken up housekeeping, and stored my things, and probably in the papers I had at that time was something, but I can not find them. A great deal that transpired is forgotten. I can not recall it to mind at all; dropped out of my mind entirely.

By Mr. KENNEDY:

Q. When did you first get acquainted with Mr. Lines?—A. I think it was in 1877 or 1878.

Q. Where?—A. In New York, I think, at the subtreasury I first met him.

Q. Did he say how he came to seek your acquaintance?—A. Did Mr. Lines say?

Q. Yes.—A. No; I don't think he did.

Q. Did not he make any explanation of why he came to see you?—A. He was introduced to me by a friend at the sub-treasury.

Q. Who was that?—A. Mr. Hale.

Q. What was your business, Mr. Fisher, at that time?—A. I was

with Sampson, detective of the stock exchange—I think with the stock exchange at that time; whether he had gone back to the Treasury at that time or not I can not remember (1877), but it was either the stock exchange or the Treasury. My impression is that he had gone back to the Treasury at that time or about that time.

Q. But Sampson was a detective and you were in his employ?—A. Yes; I had been about fifteen years at the stock exchange.

Q. What was Mr. Weed?—A. Mr. Weed was a man we would employ if we wanted anybody.

Q. A sort of a subdetective?—A. Yes; he was often employed by us in case we wanted anybody.

Q. Had Weed any other occupation?—A. Well, Weed had more or less been engaged in the real-estate business.

Q. Well, was he at that time?—A. I think he was at that time. Yes; he has been more or less with Jerry Johnson for the last—nearly twenty years.

By Mr. LINES:

Q. Jerry Johnson?—A. Yes.

By Mr. KENNEDY:

Q. In what capacity?—A. He assists him at his sales; he is in that employ now.

By Mr. LINES:

Q. Who is Jerry Johnson?—A. He is a real-estate auctioneer, doing a large business in suburban property.

By Mr. KENNEDY:

Q. Now, can you recollect your first interview with Mr. Lines distinctly?—A. No; I can not.

Q. Well, you remember who introduced him to you?—A. Certainly I do.

Q. And you remember it was at the stock exchange?—A. No; I do not. I don't know whether it was at the stock exchange or the Treasury. It was either one or the other. We were between the two, and we were just as liable to be at one as the other.

Q. Do you remember what time of the year it was?—A. I do not.

Q. Now, can you tell us substantially what it was that Mr. Lines said to you at that first interview; not the very words, but the substance of it?—A. Well, I remember that he spoke to me in relation to this claim, and that an effort was to be made to set it aside or open it, and that they wanted to have evidence on that point; secure evidence of this award being an unjust one.

Q. Now, what did he say, if anything, about Exall?—A. Well, my impression is that he told me that Exall, at least, I know that he told me that Exall had been connected with this company as an officer or secretary; that he held a position in the company. I forget exactly what it was, but that he held a position in the company and was liable to have books and papers and documents in relation to it that would show the exact state of affairs; the exact amount of the loss that had been sustained by these parties.

Q. What did he say about Exall having testified in the case before the Mixed Commission?—A. I don't remember that, Mr. Lines; I have not any recollection of any interview with Mr. Lines on that point. He possibly did. I remember very distinctly General Slaughter on that.

Q. Well, do you mean to say that at this interview in which Mr. Lines employed you, and explained the object of your employment, that he did not state to you that Exall had been a witness?—A. He did; certainly.

Q. On behalf of La Abra Company?—A. I have no doubt but what he did.

Q. Well, now, did he say anything to you as to the nature of Exall's testimony in favor of the company?—A. No; I have not any recollection in relation to my interview with Mr. Lines as to the nature of Exall's testimony particularly. I don't think that Mr. Lines entered into that so strongly as General Slaughter.

Q. Well, did he, or not, say that Exall had given important testimony in favor of the company?—A. Well, I could not say that I remember that he did. He probably did, but I don't remember that he did. There was nothing that I call to mind now that he said.

Q. Well, did not you learn afterwards that Exall had given very important testimony in favor of the company?—A. I did.

Q. And who told you that?—A. General Slaughter. I remember that. I remember the interview with General Slaughter from the fact that he was so emphatic in relation to his——

Q. I did not catch what you said just now?—A. Well, General Slaughter was more emphatic in relation to his belief that Exall's testimony was perjury, cooked up.

Q. Now, what steps, if any, were you instructed to take to show that Exall's testimony was perjury?—A. Well, as I remember it, my instructions were directed particularly toward getting these papers and documents that he had.

Q. Well, how did you expect to prove Exall's alleged perjury by documents in Exall's possession that you wanted him to turn over to you?—A. Well, I had not any knowledge of what these papers and documents were; he never stated what they were, except he stated they were very important and very valuable to the party that General Slaughter represented.

Q. Did you ever tell Exall that you believed or had been informed that he had perjured himself in his testimony in favor of La Abra Company?—A. I don't think I did.

MR. FOSTER. It would not have been a very wise remark for him to make would it?

By Mr. KENNEDY:

Q. What did you say to Exall in regard to the testimony that he had already given?—A. Well, I have not any recollection that I ever spoke to Exall in relation to any testimony he had ever given. I don't think I did. I don't know that there was—I am almost positive there was not anything said on that point, whether Exall knew that I knew that he had testified I have no knowledge.

Q. Do you mean to say that there was never anything said by Exall to you or by you to Exall in regard to the position in which Exall would place himself by giving you documents or any testimony showing that he had previously perjured himself?—A. Well, I believe there was—my recollection is that there was something said upon that point, that the documents that he had in his possession would put him in a false position. There was something said upon that, I remember, but what it was exactly I can not recall.

Q. Well, how did you meet that objection?

By Mr. LINES:

Q. First state who said that.—A. Exall himself, yes, I recollect that Exall did mention the fact that the papers or documents that he had in his possession would put him in a bad position if he produced them; that it might lay him liable, and I don't know what I told him.

By Mr. KENNEDY:

Q. Well, try and recollect just what you told him, because, of course, that was the crucial point of your negotiation.

Mr. LINES. I object to that suggestion to the witness.

Mr. KENNEDY. Well, it is cross-examination.

Mr. FOSTER. Well, you can ask him a question, but you can not state a fact to him that does not exist.

The WITNESS. Well, it would be pretty hard for me to say what I told him. I was liable to tell him a good many things for the purpose of getting evidence out of him.

By Mr. KENNEDY:

Q. Well, what things were you liable to tell him?—A. Well, I would have told him probably that that could be got over.

Q. Well, how could it be got over.

Mr. FOSTER. How did you say it would be got over, I suppose you mean.

The WITNESS. Well, I have been in a good many things of that kind in relation to people giving information that would criminate themselves, and I am liable to tell them a good many things sometimes.

By Mr. KENNEDY:

Q. Certainly. Now I ask you what you did tell him?—A. Well, I could not state exactly what I told him.

A. Well, give us your best recollection?—A. Well, I could not tell you from memory what I told him. I have not any doubt that I told him it could be arranged satisfactorily so that no harm would come to him. I have no doubt I told him that. I have no doubt that I did.

Q. Did you tell him how you would arrange it?—A. No; I did not say.

Q. Do you mean to say you did not make him any suggestion of that kind?—A. No; our negotiations did not go far enough. The thing had not arrived at the point where it was necessary to do that. I know that the question was talked about and the position it would place him in if these papers or documents that he had in his possession were forthcoming.

Q. Now, you say that General Slaughter was very decided in expressing his desire to have Exall indicted for perjury?

Mr. LINES. I don't understand that he said what he was to be indicted for, Mr. Kennedy.

Mr. KENNEDY. Yes, he did. I am quoting from his testimony, to the best of my recollection.

The WITNESS. Well, it was his connection with this. General Slaughter was very emphatic in his belief that there had been perjury committed and fraud perpetrated, and believed that Exall was party to it.

By Mr. KENNEDY:

Q. Now, you say that Exall raised the point how he would be protected in case those documents put him in the position of having been a perjurer?

Mr. LINES. I object to that. My objection is that he said that Exall raised the point that he would be put in an embarrassing position.

The WITNESS. Lay himself liable to be prosecuted.

By Mr. KENNEDY:

Q. That is it. Now, do you say that Exall himself, or Kittelle for Exall, offered to sell you certain papers for \$25,000?—A. I do not.

Q. What do you say?—A. I did not—

Q. What did you say on that point?—A. My recollection is that Exall said, and I have no doubt he did mention—I am certain now that he mentioned the amount—that if they knew the contents of the documents that he had in his possession they would not hesitate to give \$25,000 for them.

Q. Did they ever show you any documents?—A. Never did.

Q. Did Kittelle or Exall ever tell you anything about the character and contents of the documents?—A. Never did, only in a general way; that they were valuable; that is all.

Q. Now, do you say that you never told Exall or Kittelle who the parties were that would protect Exall in case he furnished those papers?—A. I don't think I ever did. I don't—

Q. Well, did Exall ask you who they were?—A. I don't remember.

Q. Did Kittelle ask you who they were?—A. No. I never had but very little to say to Kittelle.

Q. Then your best recollection is that although this question of protection was raised by Exall you never told him what parties were behind you, or what parties would save him from harm?—A. I haven't any recollection that I ever told Exall who the parties were.

Q. Or Kittelle?—A. Or Kittelle. I have no recollection of it. I may have done so, but I have no recollection of it.

Q. Well, do you remember ever having said to either Exall or Kittelle that Mr. Lines and General Slaughter and Mr. Zamacona were the parties behind you?—A. No; I have not any recollection whatever of ever mentioning the names of anybody behind me.

Q. So that you gave neither Exall nor Kittelle any information as to who the parties were to save Exall harmless in case he gave the desired evidence?—A. No; my recollection now, as I remember it, it never came to that point where it was necessary to give up the name of anybody. It was simply in conversation mentioned that if such a thing was done it would place him in a bad position, but my recollection is that it never went to that point.

Q. Did you ever suggest an interview between Exall and Mr. Zamacona?—A. I never did; I have no recollection that Zamacona's name was ever mentioned.

Q. Was Mr. Zamacona, during your negotiations with Exall, in the city of New York?—A. I never heard Zamacona's name mentioned but once in relation to it, and that was one day that I met General Slaughter in New York and he asked me to walk down to Zamacona's office with him, and I did.

Q. Now, at that interview with Zamacona what was said in regard to these negotiations with Exall?—A. I did not have an interview with Zamacona. I was in the room and General Slaughter had some conversation with him. I don't remember that I ever did have an interview with Zamacona personally myself.

Q. Well, did you hear what passed between General Slaughter and Zamacona?—A. I don't remember; I have no recollection now that I did.

Q. Well, where were you standing?—A. I remember being in his office. I remember going to his office with General Slaughter. We walked down Broadway together. I don't know that I had any particular object in going there.

Q. Well, where was Zamacona's office?—A. In Broadway, between Rector and Morris streets; I could not tell you the number, somewhere in the 40's.

Q. What did General Slaughter tell you he wanted you to go to General Zamacona's for?—A. He did not tell me. He said he was going to General Zamacona and we walked down together.

Q. Did he ask you to go with him?—A. Of course he asked me to go with him or I should not have gone.

Q. And you were present in the room with him during this conversation with Zamacona?—A. I was in the office; whether the interview between General Slaughter took place with Zamacona in the same room—

Q. Do not you remember anything that was said by Slaughter to Zamacona or Zamacona to Slaughter?—A. No; I don't remember that I ever heard a word passed between them.

Q. Were you introduced to Zamacona?—A. I think I was.

Q. Did Slaughter tell Zamacona what your employment was in this case?—A. My recollection is that he did; that General Slaughter introduced me and told him what my connection with the case was, but the interview was a very short one; it did not last more than two or three minutes. I was not in the office but two or three minutes. Very little transpired.

Q. Now, who did you say it was suggested a price for these documents of \$25,000?—A. Well, I don't say that there ever was a price suggested. I say I remember distinctly of Exall fixing that as a price that they would pay for them if they knew what he had.

Q. Now, at that interview with Exall, when he made that suggestion, who was present?—A. I don't think there was anybody present. I don't think—

Q. Now, be particular about that.—A. I don't remember that. I never met Exall in the presence of anybody. My recollection is now that when I met Exall it was alone. It is possible that I met him—I have not any recollection that I ever met him with anybody else except, possibly, Kittelle; and I have no recollection that I ever met him with Kittelle, because I know when the negotiation between Exall and me had arrived at a certain point, and I believed that something would come of it, and these documents would be produced, Mr. Kittelle suddenly appeared upon the scene and met me, as I thought at the time, accidentally, in the street; I remember distinctly where it was, corner Nassau street and Pine; and he stopped me and talked the matter over, and he did not impress me very favorably, and I had very little to say to him.

Q. Was that before you met Kittelle that this price of \$25,000 was named?—A. It was.

Q. And how long before that was it that Slaughter introduced you to Zamacona?—A. How long before that?

Q. Yes.—A. Oh, it was after that.

Q. Well, how long after that did this introduction happen?—A. Well, I could not say how long afterwards.

Q. Well give us your best recollection.—A. Well my impression is it was not a great while after. The whole matter did not extend over a very long period of time.

Q. Now to whom did you make reports of the progress of your negotiations with Exall?—A. To Mr. Lines, I think.

Q. Well, did Mr. Lines remain in the city?—A. In New York?

Q. Yes.—A. No.

Q. Then how did you report to him?—A. My recollection is that I wrote to him myself, and yet I am—

Q. Well, how many times did you write to him?—A. I couldn't say.

Mr. FOSTER. He said that he could not say that he wrote to him.

The WITNESS. I don't know how it was done. It is possible that I used to report to Mr. Hale. I don't remember how it was. Mr. Lines was in the city very often. I saw him a number of times there.

Q. Now, to refresh your recollection about that, you say perhaps you reported to Mr. Hale; what is your best recollection as to that fact?—A. My impression is that whatever report there was in the case was to Mr. Lines personally, when he came to New York, either him or General Slaughter. I can not call to mind now that I ever received any letters from Mr. Lines.

Q. No, I did not ask you that.—A. Or that I ever wrote any, but still I may have done so.

Q. Well, at that time if you did write anything, either to Mr. Hale or Mr. Lines or Mr. Slaughter or Mr. Zamacona, on this business, did you keep copies of your letters?—A. If I had written I would have had a copy, I think.

Q. Now, have you examined your letter-press book or copies of letters preparatory to this examination?—A. I have for the last two days—I have made thorough examination to see if I could find the papers, and I could not find a paper.

Q. Well, have you got a letter-press copy-book?—A. No.

Q. So that if you did keep any copy it would be in the shape of loose papers?—A. Yes.

Q. You say you have gone over your papers?—A. I have, and I have got a memorandum book of every year, and I have gone over every one of them, and I find the address of Mr. Kittelle and the name, but no particulars of the case.

Q. Well, how do you account for that?

Mr. LINES. I don't think you need answer that, Mr. Fisher.

Mr. KENNEDY. Here is a witness—I am not asking him for the contents of any of his private papers—here is a witness who says that he kept memoranda of his transactions as a detective and copies of any letters that he wrote in regard to his business. He now says that he has examined his books and his papers, that he has kept no letter-press copy-book, and that he finds no memoranda relating to this case. Is that right?

The WITNESS. Yes.

Mr. FOSTER. I—

Mr. KENNEDY. Now, one moment; let me ask my question and you can make your objection.

Q. Now, I ask you how it is that you account for the absence of any memorandum in this matter?—A. Well, about three or four years ago I broke up housekeeping and stored my furniture, and I suppose at that time I burned about a barrel or barrel and a half of papers and one thing and another, and I have the impression that everything in relation to this matter was destroyed.

Q. Well, did you burn any memorandum books?—A. Well, the small memorandum book I carry in my pocket; I have got the one for the year 1878.

Q. And have you examined that?—A. I have examined that, and I find the name of Kittelle in it and his address, where he lived, and Exall's name, I think, and that is all there is in that book; the address and name.

Q. Have you got that book with you?—A. I have not, no; just the name and address. Then I was not certain that it was 1877 or 1878, and that memorandum book of 1878 just has the name and the address in Thirty-third street, Kittelle; that is, I imagine it was him; I never knew what his initials were.

Mr. LINES. These things are liable to disappear, Mr. Kennedy, in New York, we discover.

By Mr. KENNEDY:

Q. Now, you were at that time in the employ of Mr. Sampson?—A. Yes.

Q. Was this an employment by Sampson or an employment of you independently of Sampson?—A. In this matter?

Q. Yes.—A. Oh, Mr. Sampson did not know anything about this matter at all.

Q. So that he had no connection with it?—A. None whatever. I don't think he ever heard of the case.

Q. Now, you have testified as to a letter from Exall, and you have said that your best recollection was that Exall was written to and that he answered. Who was it that wrote that letter to Exall?—A. I can not remember exactly now about it; but possibly Weed wrote the letter. That is something that I can not remember about, is that letter.

Q. Well, do you know what was done with Exall's answer?—A. I do not.

Q. Do you remember seeing Exall's answer?—A. Well, I have a recollection that there was a letter and answer that came from Exall, and I saw it; but what it related to, or what the object was exactly, I could not state. That has gone out of my mind, somehow or another, that letter.

Q. Now, did Weed ever tell you anything about an interview that he had had with Exall?—A. I never heard that Weed saw Exall.

Q. Well, that is substantially an answer, but do you say that Weed never told you anything about any interview that he ever had with Exall on this business?—A. I haven't any recollection whatever that Weed ever saw Exall. I don't know why he should see him; can not call to mind why he should see him.

Q. Do not you recollect at one time asking Weed to see Exall?

Mr. LINES. I object to that.

Mr. KENNEDY. That is cross-examination, perfectly fair.

Mr. LINES. There is nothing in the direct examination that brings that out.

Mr. KENNEDY. O, yes; there is.

The WITNESS. Well, I could not answer the question, from the fact that I can not call to mind now any reason why he should see him, and have no recollection that he ever did see him.

By Mr. KENNEDY:

Q. Well, independently of any reason, is your best recollection now that you never asked Weed to see Exall or to make an appointment with him?—A. It is possible that I did, but I haven't any recollection of it.

Q. You do not remember asking Weed to make an appointment with

S. Doc. 231, pt 2—58

Exall, to meet him at a certain place?—A. Well, I may possibly have told Weed—if I was busy I may possibly have told Weed to go to see Exall, and told him that he would meet Exall down at the exchange; I may possibly have done such a thing.

Q. Now, did you ever have any conversation with Weed about the amount of money that was to be paid to Exall for the evidence that was desired?—A. No, sir; there never was anything said about the amount of money that was to be paid to Exall, because I never was in a position to authorize anybody to—

Q. Well, did not you say on your direct examination that you gave Exall to understand that it would be to his pecuniary advantage if he turned over these documents?—A. I told him that if we knew what the documents were, if he would let us know what the documents were, and if they were valuable, then I was ready to treat with him for them.

Q. Well, did you say anything about getting him to go back on his previous testimony in favor of the company?—A. I don't think that I ever said a word to him about that, but that question came up in the course of our negotiations for these papers; that it would put him in a bad position.

Q. Yes, but what would be the use of those papers to you if the man from whom you bought them still stood by his original testimony?

Mr. LINES. I object to that. It is an expression of opinion from the —

The WITNESS. Well, I don't know anything about that. I don't know that that was ever talked about at all. I don't have any recollection of it.

By Mr. KENNEDY:

Q. Now, give us your best recollection as to what was actually said by Exall to you, or by you to him, in regard to the position that he would have to take if he gave you evidence, either by deposition or in documents, that would show that he had previously committed perjury; just give us your best recollection of what was said on that subject.—A. Well, my recollection is that in the course of a conversation in relation to these documents that we had, that he gave me to understand, or said, that if he produced these papers, that the contents of them would show that—would place him in a bad position, lay him liable to prosecution; that is the impression he gave me.

Q. What did you say in reference to that?—A. Well, I could not remember exactly what I said.

Q. Well, suppose you try hard to recollect just how you met that objection?—A. Well, I would meet it almost any way for the sake of getting those papers out of him.

Q. Well, you have said two or three times that you would say almost anything to him for the purpose of getting those papers. Now, I ask you, because this is a serious business, to tell the committee, as near as you can, just what you did say.—A. Well, I could not pretend to repeat, word for word, what I said to him.

Q. No, give us the substance of it. We do not expect you to say it word for word.—A. Well, I have no doubt but what I told him that that could be overcome.

By Mr. WILSON:

Q. How overcome?

By Mr. KENNEDY:

Q. In what way did you mean that he could be saved harmless, be-

cause that was the point of your discussion?—A. That if these documents that he had in his possession were sufficient proof of the fraud in this claim, and that it showed that fact, that he would be held harmless; that he would not be prosecuted. I have not any doubt I told him that.

Q. Did you tell him on whose faith you were making that statement?—

A. I don't think I did.

Q. Did you give him any assurance as to how he would be protected?—

A. My interview with him did not come to that point.

Q. Did not he ask you how he would be protected in case he gave the desired evidence?—A. Possibly he did.

Q. Well, don't you remember that he did?—A. I don't remember that he did; I certainly—

Q. Now, did not he ask you—

Mr. FOSTER. Well, let him finish.

By Mr. KENNEDY:

Q. Go on, Mr. Fisher.

A. General Slaughter was the only party whose name I possibly could have used, and I certainly did not use his; could not have done so from the instructions that General Slaughter gave me.

Q. Then why did you promise Exall or indicate to him that he would be saved harmless if he gave the desired evidence?—A. Well, my business was to get these documents.

Q. I understand; but you do not mean to say that you would make a representation of that sort to Exall without authority from your principals?—A. Well, for the purpose of seeing what these documents were I don't know what I might say to him.

Q. Did you ever ask him to show you those documents?—A. I think I did.

Q. Well, are you positive about that?—A. I am not.

Q. Did you ever see any of those documents?—A. I never did.

Q. Did you ever ask Kittelle to show you any of those documents?—

A. I don't think I ever asked Kittelle anything about them.

Q. Now, you said a moment ago that General Slaughter was the only man whom you could have named in connection with the proposed protection for Exall; did you not say that your first employment in this case was from or through Mr. Lines?—A. I did.

Q. Well, why could not you have used Mr. Lines's name as well as General Slaughter's?—A. Well, my interviews with Mr. Lines and General Slaughter were very different.

Q. Well, tell us in what they were different.—A. Well, General Slaughter was very anxious to get the evidence of this man Exall perpetrating fraud.

Q. Well, was not Mr. Lines?—A. Well, Mr. Lines was more in a general way. General Slaughter was more particularly related to this man Exall and the evidence.

Q. Now, return to the interview between General Slaughter and Mr. Zamacona; you say that your recollection is that General Slaughter introduced you to Zamacona?—A. I think he did.

Q. Well, what was said by you to Zamacona or by Zamacona to you in regard to this employment?—A. Nothing.

Q. You have said that that interview took place after the discussion or conversation in regard to the price that was to be paid Exall for the evidence; do you mean to say that nothing was said on that subject by you to Zamacona or by Zamacona to you, or by General Slaughter to

either of you, at that interview?—A. I think there was; I think that General Slaughter did have some conversation with Zamacona in relation to these documents that Exall professed to have in his possession.

Q. Now, give us your best recollection of what your conversation was.—A. My recollection is that Mr. Zamacona expressed a desire to get them. There was very little said.

Q. Well, but give us your best recollection——

Mr. FOSTER. Let him finish.

The WITNESS. Well, I could not——

By Mr. KENNEDY:

Q. We do not expect you to give word for word.—A. I don't remember anything more than that.

Q. But the thing was talked about?—A. My recollection is that General Slaughter stated to Mr. Zamacona just about what I had stated to him that came from Exall. That is my recollection; that it was that interview that I had with General Slaughter at which this Exall matter was talked over, and we walked down Broadway talking about it.

Q. Now, was anything said about immunity or protection for Exall at that interview?—A. No, sir; there was not.

Q. Are you positive about that?—A. I am positive. I am positive that nothing was said by Zamacona.

Q. Now, I want to get your best recollection, because a moment or two ago you said you could not recollect anything that had transpired at that interview between General Slaughter and Zamacona; and now I want you to say whether you are perfectly sure that this question of immunity or protection was not mentioned at that interview?—A. No; I am sure that it was not, because I am sure that all the interview and the conversation that we had was directly to the contrary.

Q. That is, that if you got those documents Exall was not to be protected?—A. Well, I have no recollection of having any conversation with Mr. Zamacona in relation to that whatever.

Q. Well, but you said a moment ago that what was said was just to the contrary of giving any?—A. That would be with General Slaughter.

Q. Of giving any protection or immunity?—A. With General Slaughter.

Q. Now, then, do I understand you that General Slaughter was opposed to promising any protection or immunity, and yet that you had indicated to Exall that he would be saved harmless?—A. I can not say that General Slaughter was opposed to anything of the kind. I don't know what he might have done if it had come to the point that the papers were actually produced or agreed to be produced. I only say that up to the point at which the negotiations had arrived that General Slaughter seemed—his great anxiety was to have the evidence of this man's connection with the fraud, and prosecuted; I know that.

Q. Now, do you mean to say that when you communicated to Exall that he would be saved harmless if he turned over those documents or gave the testimony in rebuttal of his previous testimony—do you mean to say that when you communicated that he would be saved harmless, you were acting without any authority from your principals?—A. I don't say that I ever told him that he would be held harmless. I never stated that I ever said such a thing to him. I say that there was something said upon that point, and my recollection is that I gave him to understand that that probably could be overcome in some way.

Q. Well, that?—A. I don't say; I have no recollection that I told him he would be held harmless.

Q. You gave him to understand that that could be arranged ?—A. I did.

Q. Well, that is substantially what I thought you did say. Now, what makes you think that Exall was boarding with Mrs. Kittelle ?—A. Well, my recollection is that—

Q. At that time ?—A. My recollection is that Mr. Exall, when this question of these papers that he had in his possession came up—my recollection is that Exall said he was about to destroy these papers a short time previous to this interview that I had with him, and my recollection is that Mrs. Kittelle had advised him not to destroy them.

Q. You mean that he told you that Mrs. Kittelle advised him ?—A. That is my recollection. Now, I don't know that he ever said that he was living at Kittelle's, or whether Kittelle said that Exall was boarding with him, but I got the impression that Exall was living at Kittelle's.

Q. Did you ever report that fact or impression to Mr. Lines ?—A. I don't know.

Q. Well, I want you to be sure about that, because it may be material.—A. I never saw Exall at Kittelle's, nor I never heard of him at the house. I don't know that I ever interested myself particularly to know where he lived.

Q. Well, my question is, whether you ever reported that as a fact or an impression to Mr. Lines that Exall was boarding at Kittelle's ?—A. I don't know that I did. I don't think I did. I don't know that I did. I can not call to mind now any reason why I should.

Q. Now I want to invite your attention particularly to the reports that you said you made of these negotiations from time to time, and I want to ask you whether you can now say that you never reported in writing to Mr. Hale ?—A. No; I am very sure I never did.

Q. Did you ever report orally to Mr. Hale in regard to the progress of this business ?—A. No; I don't think I ever did.

Q. Now, did you ever report in writing, either by letter or telegram, to Mr. Lines in regard to the progress of this business ?—A. I never reported to him by telegram, and I can not call to mind now that I ever wrote to him.

Q. That is your best recollection ?—A. My best recollection, because when I received word to come on here I didn't know where Mr. Lines's address was, and I had to go and make inquiry to find out where his address was.

Q. Oh, I do not mean to ask you for any recent correspondence between you and Mr. Lines. My question is whether in 1878, from January to April, or during the course of these negotiations, you did or did not report in writing to Mr. Lines ?—A. I don't think I ever made a written report on the case.

Q. You never wrote him a letter about it ?—A. I don't think I ever did.

Q. Now, did you ever write to General Slaughter ?—A. No; I am positive I never did.

Q. You are positive as to General Slaughter ?—A. I am positive.

Q. Now, how frequently did you meet Mr. Lines and General Slaughter in New York during these negotiations ?—A. Oh, Mr. Lines was there quite frequently, but I don't know that I ever saw General Slaughter, probably not twice or three times; not over that.

Q. Can you give us any idea of how many interviews you had during the progress of those negotiations with Mr. Lines in New York ?—A. Oh, I had a number. I can not tell how many; quite a number.

Q. Now, where were those interviews of yours with Mr. Lines in New York City held?—A. Well, it would be at the Treasury.

Q. Who was present except Mr. Lines and yourself?—A. Well, I don't know as anybody was present except Mr. Lines.

Q. You never reported to Mr. Lines and General Slaughter when they were together?—A. I don't think I ever saw Mr. Lines and General Slaughter together. I may have done it once, but don't recollect that I ever did. I think they were together once, but I am sure that Mr. Lines was not there at the time we walked down Broadway. I think that I met them together.

Q. You say you think that you met them together?—A. I think so; yes.

Q. At a time when you made a report on this business?—A. Well, I am not sure upon that point whether I ever did see Mr. Lines and General Slaughter together or not.

Q. Now, did you ever make a report to Mr. Zamacona?—A. I never did.

Q. Never had communication with him?—A. Never had communication with him.

Q. Nor with any attaché of the Mexican legation in Washington?—A. No, sir.

Q. Now, who was it that told you that Exall had those documents in a box?—A. He did himself.

Q. You say you never saw one of those documents?—A. I never did.

Q. But you remember that you asked Exall to show them to you?—A. I certainly asked him to show them; yes.

Q. Did you ever examine the testimony that Exall had given before the Mixed Commission?—A. Never saw a word of it.

Q. Did you ever have any conversation with him about the testimony that he had given before the mixed commission?—A. I never did.

Q. Did you not have any instructions from Mr. Lines or General Slaughter or Mr. Zamacona as to the points on which new testimony was desired from Exall?—A. I never saw a word of Exall's testimony in my life. I don't know what he testified to.

Q. Do you mean to say that Exall's testimony was never explained to you by any one of the parties?—A. I have no recollection that it ever was.

Q. So that you were negotiating all this time with Exall and not knowing substantially what his testimony had been?—A. No, I never had the nature of Exall's testimony explained to me at all. I never read it. I never saw a copy of it; may in a general way; my impression is that General Slaughter, as we were walking along, may have said something in relation to his testimony. I don't remember what it was.

Q. Well, will you swear that you were you not instructed that it was of the first or of high importance for you to get from Exall himself testimony different from what he had previously given before the Commission?

Mr. LINES. Let us explain before he answers.

Mr. KENNEDY. No; I think he ought to answer that question without any explanation.

Mr. LINES. I think I may interpose, if you will permit me.

Mr. KENNEDY. Well, if you have an objection to make, of course you can do so.

Mr. LINES. I want to explain—

Mr. KENNEDY. There ought to be no explanation, Mr. Lines.

Mr. LINES. I want you to explain what is meant by testimony, and it is in your interest to do it.

Mr. KENNEDY. I am willing to have the question read again to the witness and if the witness does not understand I will cheerfully make any explanation.

(The stenographer read the question, as follows:)

Q. Well, will you swear that you were not instructed that it was of the first or of high importance for you to get from Exall himself testimony different from what he had previously given before the Commission?

Mr. LINES. Now, my point is that the word "testimony" should be qualified by the word "oral" or "written," according to which character of testimony is meant by the question.

By Mr. KENNEDY:

Q. I mean, Mr. Fisher, by testimony "from Exall himself," of course; testimony that was to be given by Exall himself, as distinguished from documentary evidence to contradict the testimony which he had given before the Commission?—A. Him to give testimony?

Q. Yes.—A. No, sir.

Q. Now, you have testified that you were informed by General Slaughter or Mr. Lines that Mr. Exall had given important testimony; that is, his own deposition before the Mixed Commission, and that it was desired that that testimony should be shown to be what you have said General Slaughter indicated that he believed it to be—that is, fraudulent; and now I ask you again whether you were not instructed that your employers desired Exall to give a deposition or other testimony contradictory of his deposition before the Commission?—A. No, sir; I have no recollection that they wanted any deposition. It was the evidence in his possession that he held would be likely—

Q. Do I understand you then correctly that Exall was to have it made worth his while without naming any special price to turn over documents in his possession without making any change in his own deposition by any further testimony from himself?—A. Well, yes; the idea was that he was to furnish evidence or documents that he had in his possession.

Q. And let his own previous testimony stand?

Mr. LINES. Well, he said he—

Mr. KENNEDY. Just let him answer the question.

Mr. LINES. Don't recollect anything of that kind.

The WITNESS. I don't remember that there was anything said about changing his testimony at all.

By Mr. KENNEDY:

Q. Well, what was it that brought up the question of his danger from any conflict between his previous testimony and the evidence of whatever sort it was that you wanted from him?—A. Well, my recollection is that the production of these papers would show that the evidence that he had given—that these documents would contradict the evidence he had given.

Q. And you understood that your principals would be satisfied to make it worth his while to turn over those documents without retracting his own sworn testimony that conflicted with these documents?—A. That I gave him to understand—

Q. No; my question is whether you want us to understand that your principals would have been satisfied with those alleged documents without change on the part of Exall himself in regard to the sworn testi-

mony that he had given before the Mixed Commission?—A. Yes; but these documents that he had in his possession were proof of the fraud. Yes, my recollection is that they would.

Q. And you mean to say that when Exall spoke to you about the danger that he would be in that nothing was said by you to him about changing his previous deposition?—A. Well, I don't remember, I am sure, about how that was. I —

Q. Did not you know that there was a controversy?

Mr. FOSTER. Let him finish. He is entitled to finish his answer.

The WITNESS. Well, I had not any particular knowledge of what Exall's testimony was at the time. I did not know what he had testified to.

By Mr. KENNEDY:

Q. But you have sworn that General Slaughter said to you, or left the impression on your mind, that Exall's deposition before the commission was false?—A. Yes.

Q. Now my question is, whether when you and Exall were discussing the question of his immunity from prosecution nothing was said by you in regard to obtaining from him some affidavit or deposition that would contradict his previous sworn testimony. Now, what is your best recollection on that point?

Mr. LINES. He has answered the question, I think.

The WITNESS. I don't remember that there ever was anything said about asking him to make an affidavit. I am sure there never was.

By Mr. KENNEDY:

Q. And you mean to say that his deposition before the commission, so far as your employment was concerned, was to be left unchanged and unchallenged except by whatever documentary evidence he would turn over?—A. There was nothing said to me—

Q. No—

Mr. FOSTER. Let him answer. He can choose his own way of answering.

The WITNESS. Nothing was said to me in relation to his changing it or his evidence before the commission at all.

By Mr. KENNEDY:

Q. In other words, you did not want to get any deposition or affidavit from Exall himself?—A. No; I never tried. My whole endeavor was to get possession of these documents that he had in his possession; the evidence that he had in his possession.

Q. Now, do you say that you never had a letter from Mr. Lines, or General Slaughter, or Mr. Yamacona, specifying the points in which a change in Exall's deposition was desired?—A. I never did.

Q. Did you ever see such a letter?—A. I never did.

Q. Did you ever hear such a letter?—A. I did not.

Q. Did Mr. Weed ever tell you that he had such a letter in his possession?—A. He never did.

Q. Did Mr. Weed ever tell you that he read a portion of such a letter to Mr. Kittelle?—A. I never heard of his ever having a letter or reading a letter.

By Mr. WILSON:

Q. Where were you introduced to Mr. Lines?—A. My recollection is it was in the United States Subtreasury.

Q. Had you known General Slaughter before that time?—A. I never had.

Q. After you had seen Mr. Lines where did you first see Exall?—A. I think I saw him in the exchange-room in Broadway.

Q. How long after you saw Mr. Lines?—A. Well, I could not remember.

Q. About how many days was it, or how many hours?—A. Well, I can not call to mind now what. I don't remember how it was that I found out where Exall was. I can not recall what trouble it was to get to him.

Q. How soon after you saw Mr. Lines did you commence to look for Exall?—A. Probably right away.

Q. Immediately; what is your best recollection about that?—A. I don't remember in relation to that. I probably did.

Q. Did you find Mr. Exall the same day?—A. Oh, I couldn't say.

Q. Well, what is your best recollection about that? How long afterwards did you find him?—A. I could not form the slightest idea about that.

Q. Well, do you think it was a week?—A. It might have been a week; it might have been a month. I could not tell.

Q. Well, do you think it was as much as a month?—A. Oh, I couldn't tell. That is something I could not form any idea of, whether it was a week or a month.

Q. Very well. How many interviews did you have with Exall?—A. Not a great many.

Q. Well, how many?—A. Well, I had several; maybe a half dozen. I don't know.

Q. Where?—A. My impression is that they were all at this exchange-room; at least I can not remember of any other place.

Q. What occurred between you and Exall at the first interview you had with him?

Mr. LINES. It strikes me, judge, that you are going all over this thing, and we object to it.

Mr. WILSON. No, I am not. It is the very thing I suggested to Mr. Kennedy and he did not go over it because it would break up the line of his examination.

Q. What occurred at that first interview you had?—A. Well, I don't know that I could testify.

Q. Can you tell us anything that occurred at the first interview?—A. Oh, I think that the first interview I had with him, I think I brought this question up about his connection with this claim. I don't remember whether I did on the first occasion or not. I possibly did.

Q. Did you inquire of him anything about La Abra Company and its business at this interview you had?—A. Well, I couldn't say whether I did or not, possibly; I don't remember.

Q. Had you previous to that first interview known Exall?—A. I never had.

Q. You never had seen him before?—A. No.

Q. Well, when you spoke to him in the first interview, or when you accosted him, did you introduce yourself to him or did somebody introduce you?—A. I can not call to mind now just how I did meet him or how I came to know him.

Q. Well, you came to know him then for the first time. Now, did he broach this business to you or you to him?—A. Well, I have no recollection on that point; but I am positive he did not broach it to me.

Q. Then you mentioned to him about this La Abra business, did you?—A. At some time.

Q. Well, in the first interview?—A. I could not remember.

Q. Beyond meeting there?—A. No; I knew most everybody down on the street, those stock brokers, and I am sure there it would not take me five minutes to find somebody he knew, and I suppose it is probably that way that I got acquainted with him, but I don't remember.

Q. Now, did you introduce the subject of La Abra business with him?—A. That first time?

Q. Yes.—A. Oh, I could not remember.

Q. When did you meet next?—A. Oh, I met him a number of times, extending over quite a period.

Q. In your next interview did you mention La Abra?—A. I presume so. I could not specify.

Q. What did you say to him?—A. Oh, I can not recall at this time how the matter was brought up. I forget how it was.

Q. Can you tell us when you did first mention this thing to him?—A. I could not.

Q. Can you tell us what you said to him when you did first mention it?—A. I can not. I can not tell how the question came up.

Q. Can you tell us when you and he came down to talk about La Abra business, as you have indicated in your testimony?—A. Well, it was at these interviews I had with him, but at which particular interview or at what particular place I can not remember.

Q. Can you state at what interview it was that the matter of the furnishing of papers was mentioned by Exall or by you?

A. I don't remember at what interview it was. I remember where it was.

Q. Well, where was it?—A. It was on the New-street side of the stock-room, and standing in the hall. I recollect distinctly the place where it was; what interview it was I don't remember.

Q. Now, tell us when you first saw General Slaughter; became acquainted with him.—A. Oh, I couldn't tell you. My impression is it was some time in the year 1878.

Q. Was it before or after you had your first meeting with Mr. Lines?—A. Oh, after.

Q. Who introduced you to General Slaughter?—A. My impression is that General Slaughter and Mr. Lines were together. Now, as I remember it, they were in New York together.

Q. Well, I have not asked you anything about that?—A. That is my recollection.

Q. I have not asked you anything about that; I asked you who introduced you.—A. Well, it was Mr. Lines if that was the case. My recollection is that I met Mr. Lines and Mr. Slaughter together and that Mr. Lines introduced me. I will not swear positively about that, but that is my impression.

Q. Where was that?—A. At the Treasury.

Q. How long after you were introduced to Mr. Lines did you meet General Slaughter?—A. Some time.

Q. Was it before or after these interviews you met Exall?—A. I met General Slaughter after I had the interviews with Exall.

Q. You met him for the first time after all the interviews had occurred?—A. I think not.

Q. With Exall?—A. I think not.

Q. Now, after how many interviews did you meet General Slaughter; how many times had you met Exall before you met General Slaughter?—A. Well, I couldn't say. We talked this matter over, talked about the documents, and so on.

Q. At the time you first met General Slaughter had this suggestion of \$25,000 been made?—A. It had.

Q. Now, how long after you first met General Slaughter did you go to see Mr. Zamacona?—A. It was at the time I met General Slaughter.

Q. That was the first time you met him?—A. Yes.

Q. Did you communicate to General Slaughter what had been said between you and Exall?—A. I did.

Q. And how long was that conversation between you and General Slaughter?—A. Well, we were together some time.

Q. How long?—A. Oh, I could not remember.

Q. Half an hour?—A. More, probably.

Q. Well, an hour?—A. Well, probably an hour, from half an hour to an hour.

Q. And then you and General Slaughter went directly to Zamacona, did you?—A. We walked down to his office; yes.

Q. Well, but you went directly from your interview to Zamacona?—A. Well, the interview we had was as we walked along the street, as I recollect it. I recollect standing quite a time with him on the corner of Exchange Place and Broadway.

Q. And talking this matter over?—A. Yes.

Q. Then where did you go?—A. Well, I forget whether that was before or after we went to Zamacona; it was on our way to Zamacona's.

Q. It was on your way to Zamacona's?—A. Or coming from it.

Q. Well, I want to know whether you communicated these facts to General Slaughter before you went to Zamacona's?—A. I certainly did.

Q. And from the interview in which you communicated that to General Slaughter you went directly to Zamacona?—A. We were on our way. I was giving General Slaughter an account of my interview and the result of it on our way to Zamacona.

Q. And that was the first time you met Slaughter?—A. That was the first time I met him.

Q. Well, what did you go to Zamacona's office for?—A. I don't know. General Slaughter said he was going down to see Zamacona, I think, and we walked along together, and I have no recollection now that there was any particular object in going there. I can not recollect any.

Q. Well, you went down there with him?—A. I did. I went down there with him, and I would not know Mr. Zamacona if I saw him. I would not recollect what kind of a looking man he is.

Q. I do not care; that is immaterial.—A. Certainly it is.

Q. I am very particular to keep everything out of this except what is material. You heard the conversation of General Slaughter and Mr. Zamacona in that office?—A. I don't remember that I did hear it particularly.

Q. Well, that is what you said in the early part of your examination.—A. I heard some of the conversation between General Slaughter and Zamacona.

Q. Now, Mr. Fisher, is not it true that you communicated to General Slaughter what your conversation with Exall had been, and is it not true that you communicated to him that Exall had made this suggestion about the \$25,000, and is it not true that you and General Slaughter then went down and saw Mr. Zamacona in relation to that matter; now is not that true?—A. In relation to—

Q. In relation to these interviews between you and Exall?—A. Undoubtedly.

Q. Now, you undoubtedly went down there to communicate with Zamacona about that?—A. General Slaughter went down there about—

Q. Well, wait a minute now. Is not it true, now, that you, having communicated to General Slaughter what Exall had said in respect to this \$25,000, that you and General Slaughter went down and saw Zamacona about it; now is not that true?—A. He went down to see Zamacona in relation to Exall.

Q. Well, did not you and he together go down to see him in relation to Exall?—A. Certainly.

Q. And that was your purpose in starting down there, was it not?—A. Well, as we walked along the street—as my recollection is, that as we walked along the street—General Slaughter said he was going down to see Zamacona—

Q. Well?

Mr. FOSTER. Well, we insist the witness shall finish his answer without interruption.

Mr. WILSON. I insist upon his answer to my question.

Mr. FOSTER. If he is not answering you can repeat the question, but I object to your interrupting the answer before the witness has finished. I insist that this witness shall finish his answer.

Mr. WILSON. Well, now, Mr. Fisher is going to answer the question.

Mr. FOSTER. If I can control it in any way he is going to finish the statement you interrupted.

Mr. WILSON. Providing it is responsive.

Mr. FOSTER. You can not tell until it is answered that it is not responsive. Before we go any further I want him to finish that sentence.

Mr. WILSON. I was going to say in order to save trouble that he can finish it now.

Mr. FOSTER. The stenographer will just read to where he left off.

The stenographer read the answer, as follows:

A. Well, as we walked along the street—as my recollection is, that as we walked along the street—General Slaughter said he was going down to see Zamacona—

The WITNESS. Well, that is my recollection of it; that he said he was going to see Zamacona, and he asked me to walk along, and I walked along and I went there with him. I have no recollection that I had any particular object in going there.

By Mr. WILSON:

Q. Well, I have not asked you about any particular object, Mr. Fisher. I simply asked you this question: You were introduced to Mr. Slaughter; that was the first time you had ever seen him?—A. That is the first time; yes, sir.

Q. But you told General Slaughter what had occurred between you and Exall?—A. I did.

Q. And you told General Slaughter of the suggestions he had made in respect to this \$25,000; that you told him?—A. I think I did.

Q. Now, did not you and General Slaughter just start down to see Mr. Zamacona in respect to all these conversations?—A. No, sir. We walked along the street; my recollection is we walked some distance before I knew where he was going; my recollection in regard to that is very clear; that on our way down Broadway he said he was going to Zamacona's office, and asked me to go along with him; and on our way down I was telling him; of course I had known previously to that that General Slaughter was connected with the case.

Q. How did you find out that General Slaughter was connected with the case?—A. Why, heard it from Mr. Lines.

Q. Did you know it in any other way?—A. No.

Q. How many interviews had you had with Mr. Lines before this

communication to General Slaughter?—A. Well, I could not say how many. I had seen Mr. Lines a number of times in New York.

Q. About this business?—A. Yes. I couldn't say how many times, but I (pausing).

Q. Well, finish you answer?—A. No; that is all.

Q. Well, you were going to say something else, and you do not want to?—A. Oh, no; I said that I knew that General Slaughter was in the case; that is all.

Q. And you knew that only through Mr. Lines?—A. That is all. I had heard his name mentioned as being connected with the case.

Q. Well, but you said you employed Weed?—A. Yes; my recollection is that I did employ Weed after the time that Kittelle appeared in the case.

Q. Well, about what time was that?—A. O, that was some time after Exall and I had been talking the matter over and talking about these documents. Kittelle appeared upon the scene and commenced to tell me about what he knew about them, and so on.

Q. What did you employ Weed to do?—A. To find out who Kittelle was.

Q. And any other purpose?—A. I don't remember that Weed was employed for any other purpose, except to find out who this man Kittelle was.

Q. Did you have any correspondence with Exall?—A. I can not remember that I ever did.

Q. Did you write him any letters?—A. I may have done it. I have a kind of an indistinct recollection that there were some letters, but if there was any letter outside of the one I have got in my mind, I can not recall it.

Q. What is the one you have in your mind?—A. That there was a letter written to Exall, I believe, for the purpose of drawing an answer from him. As far as the letter business is concerned with Exall, I can not remember.

Q. Did you write the letter yourself or have somebody else write it?—A. I don't think I did.

Q. Well; what is your recollection on that?—A. Well, my recollection is not good enough to—I can not state about that letter business.

Q. Did you make any appointment by letter or ask him to make any appointment with you by letter?—A. Possibly.

Q. Well, what is your recollection about it?—A. I can not recollect positively. There may possibly have been an appointment made with him by letter, but I have no recollection of it.

Q. Has it ever been brought to your attention that the Mexican minister was to be soon in New York and that you wanted to have a communication from Exall in anticipation of his coming?—A. The Mexican minister; no, sir; never heard of it.

Q. Never heard of it; you are sure of that?—A. Yes.

Q. You never invited Exall to fix a place where he could meet you, or would meet you, because the Mexican minister was coming over, and you wanted to see him before the Mexican minister came?—A. Oh, there may possibly something of that kind have passed between us. I think I do remember—I have an indistinct recollection of something of the kind transpiring, but not with the authority of the Mexican minister.

Q. Oh, I am not talking about the authority of the Mexican minister now. If anything of that kind did transpire, had you any knowledge

of the Mexican minister coming?—A. I had not; not that I remember of. I have no recollection of it.

Q. You have no recollection of it?—A. No, sir.

Q. Well, do you say it did not happen?—A. What?

Q. That the Mexican minister was coming over.—A. I had no business with the Mexican minister whatever.

Q. Well, if anybody had informed you that the Mexican minister was coming to New York who gave you that information?—A. I don't think anybody did; I have not any recollection that anybody did.

Q. Well, you have no recollection on that subject whatever?—A. No; I am quite sure that there was not anybody ever gave me any knowledge about the Mexican minister.

Q. Well, you would not report a thing to Exall that was not true, would you?—A. Well, I am not prepared to say that exactly.

Q. No?—A. The time I was negotiating for these papers I may have said some things that would not bear very close investigation, for the purpose of getting these papers from him.

Q. Yes?—A. It is possible; I don't say it was so, but it is possible.

Q. But you have no recollection whatever on the subject now, have you?—A. No.

Q. What?—A. No; I have not.

Q. And you have no recollection of ever having even written a letter to Exall?—A. Well, I have an indistinct recollection of it, but my recollection is not good. I could not—it is not clear enough to testify. I don't know anything of the particulars about it. I have an indistinct recollection that I did write or cause a letter to be written to him, but my recollection is very vague on that.

Q. Well, what is your recollection as to whether you told him the truth or not if you did write him a letter?—A. Well, I could tell better if I knew what the letter was about.

Q. I know you could, but I am testing your recollection now.—A. Well, my recollection on that question of writing letters is very vague. I am not clear enough on that to testify.

Q. Well, what is your recollection as to whether you told the truth in any letter you may have written?—A. Well, my recollection is that Exall was acting in a very strange manner, and my recollection is that he had deputized this man Kittelle and tried to keep under cover. I got suspicious of him, and my recollection of his—

Q. Well, is not this about your recollection, that you were trying to play him and he was trying to play you?—A. Possibly.

Q. Well, did not it look a good deal that way to you?—A. Well, I can not say what he was trying to do, I am sure.

Q. Well, did not it look a good deal to you, as a detective, that he was playing fast and loose with you just as you were playing fast and loose with him?—A. I can not call to mind now. I don't know what he was to gain by it.

Q. He professed to have papers that were worth to the Mexican Government \$25,000, did he not?—A. Yes.

Q. And he utterly refused to let you look at these papers, did he not?—A. He did, yes; he refused to produce any of them.

Q. And he utterly refused to tell you what was in them?—A. Well, in a general way.

Q. Well, in a general way, and the general way was that they would be of value to the Mexican Government?—A. Well, in a general way they would show—I remember distinctly he stated he had papers in his possession that would show that the losses were not as they were made to appear.

Q. Well, recurring to that question, just take your letter and see if it is as you remember it now [handing it to witness].

Mr. LINES. What page is that?

Mr. WILSON. Page 774.

The WITNESS. Yes; I have an indistinct recollection of that. Yes, there is no doubt I wrote that letter to him.

Q. Now, I will take this copy and you hold that in your hand. You say—

The Mexican minister is expected to arrive in this city either to-morrow or Wednesday, and I should like to see you before I see him.

Is that true?—A. Is it true about my seeing the Mexican minister?

Q. No, no; is that statement true? That is what I am talking about.—A. I had no appointment with the Mexican minister.

Q. Well, that is not what I asked you.—A. No; that was simply for the purpose of meeting him.

Q. For the purpose of meeting who?—A. Exall.

Q. Well, you say that this statement is not true; that is the first thing you say, is it?—A. Well, there was something about that. I forget exactly, now.

Q. I have not asked you about that. Is that statement true?—A. The statement that I wanted to see him before I saw the Mexican minister? No. I never had any appointment with the Mexican minister.

Q. I did not ask you if you had any appointment with him.

Mr. FOSTER. Well, what statement? Perhaps if you explain—

By Mr. WILSON:

Q. "The Mexican minister is expected to arrive in this city either to-morrow or Wednesday." Is that true?—A. Well, I believe that he was to arrive, that I had heard that he was to arrive there, but—

Q. That is exactly what we want to get at.—A. That is what I am trying to think, and I forget now how I did hear it. I believe I did hear he was to be in New York.

Q. Well, who told you?—A. Oh, I could not say. I don't remember. My impression is that the Mexican minister was to be in New York and that I was anxious to see Exall.

Q. Before you saw the minister?—A. No, not before I saw him, because I would not see him.

Q. Well, before you saw somebody who would see him; is that what you mean?—A. Possibly; I am not positive about it.

Q. Well, probably, is it not?—A. Well, I don't remember as to that. I can not recall it. I can not clear my memory on that thing some way. I recollect there was something about it when I come to read the letter.

Q. Well, now, when you come to read that letter does not it refresh your recollection that the Mexican minister was to be consulted in respect of the payment of this \$25,000?—A. No, sir; never heard a word about it.

Q. That does not refresh your recollection a particle?—A. Never a word passed between the Mexican minister and myself nor anybody connected with the Mexican minister.

Q. I did not say there was. The stenographer will read the question again.

The stenographer read the question as follows:

Q. Well, now, when you come to read that letter, does not it refresh your recollection that the Mexican minister was to be consulted in respect of the payment of this \$25,000.

The WITNESS. No, sir.

By Mr. WILSON:

Q. That don't refresh your recollection a particle?—A. No, sir.

Q. Then what did you want to see Exall for before you saw the Mexican minister?—A. Well, Exall had mentioned the fact about this \$25,000, and I was urging and anxious to have Exall produce some of these papers or produce the contents of them. I did not know what they were, but that they related in some way, and trying to get Mr. Exall to state what these papers contained.

Q. Exactly. In other words you wanted to get a little more definite information in regard to these papers before you communicated with the Mexican minister as to the \$25,000; is not that so?—A. No, sir; there was never a word said by the Mexican minister or anybody connected with him.

Q. My dear sir, I ask you no such question as that whatever.

Mr. FOSTER. Well, he answered your question specifically.

Mr. WILSON. No. Just read the question again and let me ask—

Mr. FOSTER. If that is not an answer what answer can he make?

Mr. WILSON. I want the question read.

(The stenographer read the question as follows:)

Q. Exactly. In other words you wanted to get a little more definite information in regard to these papers before you communicated with the Mexican minister as to the \$25,000. Is not that so?

The WITNESS. I say that I did want to get from Exall information before I communicated about the \$25,000

By Mr. WILSON:

Q. Well, you had already received from him the statement that he had these papers?—A. Certainly.

Q. You had already received from him the statement that he thought they were worth \$25,000 to the Mexican Government?—A. Yes, that he thought so.

Q. That he claimed they were worth that; you had received that?—A. Yes.

Q. But you had not received any definite information as to what the papers contained?—A. I had not.

Q. But you had communicated before this time to Mr. Lines or to General Slaughter what Exall had said to you about these papers?—A. Undoubtedly.

Q. Yes, you had communicated that to General Slaughter and Mr. Lines?—A. Yes.

Q. Very well, but you were not able to communicate to them what the papers contained or give them very definite information as to what they were?—A. No, sir.

Q. And you wanted to get a further interview with him in respect to these papers?—A. Yes.

Q. And so you wrote him this letter; is that it?—A. Well, I don't remember exactly what the object was in writing that letter to him but it was something in relation to that.

Q. Well, you wrote him this letter after you had received all this information?—A. From him?

Q. Yes.—A. Undoubtedly.

Q. And after you had communicated what you had received from him to Mr. Lines and General Slaughter.—A. Yes.

Q. Now, you say to him that "the Mexican minister is expected to arrive in this city either to-morrow or Wednesday, and I should like to see you before I see him," and you say that when you wrote that letter

you wrote it with a purpose of getting more definite information about these papers ?—A. I did.

Q. We will leave that right there. Now, will you tell us who paid you for your services in this matter ?—A. Mr. Lines.

Q. How much ?—A. Oh, I couldn't tell.

Q. How long were you at work at it ?—A. Not very long.

Q. A week ?—A. Oh, yes.

Q. A month ?—A. Oh, it extended more than a month ; not continuous work, but it extended—I forget now how long it did.

Q. Can you give us any idea as to how much money was paid you for your service in this matter ?—A. I could not.

Q. Was it \$50 ?—A. I presume it was.

Q. One hundred dollars ?—A. Oh, I couldn't say how much.

Q. Five hundred dollars ?—A. Oh, no.

Q. Well, give us your impression about it; that is what I want now.—A. I could not form the slightest idea of how much I received. I recollect receiving a check or money or something—my pay in the case—but how much it was I could not say.

Q. Yes; a check, was it ?—A. I don't remember as it was.

Mr. FOSTER. He said a check or money.

The WITNESS. I remember receiving a check or money, but could not tell how much it was. I remember receiving my pay, and I can state my recollection; it was not a hundred dollars.

By Mr. WILSON:

Q. Where were you when you got it ?—A. In New York, at the Treasury.

Q. Well, if you recollect that it was at the Treasury, can not you tell us who paid it ?—A. I don't remember how I got it.

Q. Who paid Weed for his services ?—A. I did.

Q. How much did you pay him ?—A. I don't remember; not much.

By Mr. LINES:

Q. You said that Kittelle stopped you on the street. Had you ever seen him before ?

Mr. KENNEDY. Well, did he say that, Mr. Chairman, that Kittelle stopped him on the street ? That is not my recollection.

Mr. FOSTER. Well, just ask him, Mr. Lines.

By Mr. LINES:

Q. Did you say that ?—A. Yes; I said I met him in Nassau street, near Pine.

By Mr. KENNEDY:

Q. Well, did you say that he stopped you on the street ?—A. Yes.

By Mr. LINES:

Q. Had you ever seen him before ?—A. I think I had seen him before.

Q. Do you recollect how you were first introduced to Kittelle ?—A. My recollection is that I was not introduced to him. As I remember it now, he was in company with Exall, when I met Exall once, and I was not introduced to him. That is my recollection, and Exall failed to meet me and—

Q. You do not recollect whether Exall introduced him to you or not ?—A. I don't recollect that he did.

Q. Now, about how often do you think you saw Exall after you saw General Slaughter ?—A. Well I could not say, but I did not see him

very often afterwards. My recollection is it, was about that time that Kittelle appeared on the scene.

Q. Now, if I understand you, you say that in your interviews with me you got from me the impression that Exall was an officer of this company and liable as such to have books and papers and documents of the company?—A. Yes.

Q. Now, I ask you whether you recollect anything else being the subject-matter of your interview with me than such papers and documents or the procurement of them from Exall?—A. I don't remember of anything else.

Q. As I understand you, it was after you had seen General Slaughter that this question came up in your interviews with Exall as to the embarrassment which it would give him to produce documents conflicting with his testimony?—A. That it was after I saw General Slaughter.

Q. After you saw General Slaughter. Was that what you stated?—A. No.

Mr. KENNEDY. No; it was just the other way.

By Mr. LINES:

Q. It was before you saw General Slaughter?—A. Yes.

Q. And after this you said you thought that objection could be overcome?—A. Yes. I remember that question was talked about, and I gave him to understand that I thought there would be no difficulty about that.

Q. Well, what did you have in your own mind then as to the means of overcoming this difficulty?

Mr. KENNEDY. Well, I object to that because, while it would be competent for the witness to say what his instructions from his employers were in regard to the methods of furnishing immunity, I do not think it is competent for him to say what was in his own mind. I do not see how that could bind either your side or my side.

Mr. LINES. I do not think it would; but I think he said he had no instructions on that point.

Q. You mean to say you had no instructions?—A. I did not have instructions.

Q. Suppose Mr. Exall, after turning over the documents, had left the country?—A. Oh, I do not suppose he could be prosecuted.

Mr. KENNEDY. Well, that I object to on the ground that it is purely hypothetical and would scarcely be admissible even in summing up the case; that is, there is nothing in the evidence to suggest that it ever was suggested to Exall by Mr. Fisher, or the gentleman whom he represented, that Exall should flee the country.

Mr. LINES. I will not say that, Mr. Kennedy; I am trying to get at what Mr. Fisher had in his own mind when he made that suggestion.

Mr. KENNEDY. I have already objected to the admissibility of anything Mr. Fisher had in his own mind as distinguished from what he communicated to Exall.

By Mr. LINES:

Q. Well, did you explain that remark of yours to Exall in any way, that the objection might be overcome?—A. No; I did not.

Q. Mr. Fisher, will you state what your experience has been as a detective in New York; I mean to say how long?—A. Over twenty years.

Q. Commencing when?—A. About 1867.

Q. In what employ?—A. Well, principally in Wall street; most all the time.

Q. With whom did you commence this service?—A. Captain Young.

Q. Who was Captain Young ?—A. Captain of the New York police detective force.

Q. Captain of the detective force ?—A. Yes.

Q. How long were you with him ?—A. I think up to about 1870 or 1871; about three years.

Q. Then after that ?—A. Then I went with Sampson on the stock exchange.

Q. What was Captain Sampson's position on the stock exchange ?—

A. He was the chief officer of the stock exchange.

By Mr. KENNEDY :

Q. That is, chief detective ?—A. Yes; and afterwards, and at the present time, chief detective in the United States Treasury in New York.

By Mr. LINES :

Q. And after you left Captain Sampson ?—A. I went to the elevated railroad; took charge of their damage cases.

Q. Were you ever in the employ of the United States ?—A. No; never.

Mr. KENNEDY. I would like to enter an objection here that the proof of Mr. Fisher's experience as a detective is not relevant because we have not raised the question that he is an expert, and although it is premature I would like to object also against any opinion that he may give as an expert in this case.

Mr. LINES. I am not seeking to get any testimony from him as an expert. I am merely seeking to get his record.

Mr. KENNEDY. Well, we will admit that he is an experienced detective. It is simply for the purpose of saving time.

Mr. LINES. Well, that is not what I want, Mr. Kennedy, exactly.

Mr. KENNEDY. Well, go ahead.

By Mr. LINES :

Q. How long have you been with the Elevated Railroad Company, Mr. Fisher ?—A. Well, about three years; going on three years.

Q. So that from 1870 to about three years ago—A. I was with Sampson, and from that time I have been with the elevated railroad. I was employed about six months by the United States Government directly at West Point. That is the only time.

Q. When was that ?—A. In the case of Cadet Whittaker.

TESTIMONY OF JAMES E. SLAUGHTER.

JAMES E. SLAUGHTER, sworn and examined.

Mr. FOSTER. Mr. Chairman, before you enter upon the examination of the witness I desire to lay this letter before you. It is the letter of the Sergeant-at-Arms to General Slaughter, which would seem to indicate a line of investigation which I did not know was to be followed by the summoning of General Slaughter. Whether the committee have authorized that letter or not I do not know. I doubt whether the committee would ask General Slaughter to bring with him letters that I had written to him or that he had written to me about the management of this case, or that Mr. Lines, the other counsel of the Mexican Government, had written to him, and various other matters of that character.

The CHAIRMAN. I do not know anything about this paper. I never saw it before.

Mr. LINES. There was no suggestion at any meeting of the committee, as I remember it, of any subpoena *duces tecum* to General Slaughter.

The CHAIRMAN. I have not heard of any.

Mr. KENNEDY. Mr. Chairman, at the time that you put it to me whether we wanted General Slaughter summoned as our witness in case the committee decided not to summon him as an independent witness or as its witness, my recollection is that I did outline to the committee what we expected to prove by General Slaughter, and I prepared, after you decided that we must have him summoned as our witness, a list of papers that we wanted him to bring with him, and I think I handed it or showed it to Mr. Babcock and asked him to hand it to you, and if I am not mistaken his suggestion was I should go to the Sergeant-at-Arms and hand over the paper to him, which I did.

The CHAIRMAN. Well, there is no cause to make any observation about it. I do not recognize that as a paper emanating from the committee. Mr. Slaughter was summoned here at the instance of La Abra Silver Mining Company, but with the statement on my part that his attitudes as disclosed in the testimony of the other witnesses, was such that he might be proceeded with under the privileges that belonged to a cross-examination, not that he was being cross-examined, but that the same latitude of examination would be allowed as if he were under cross-examination. Mr. Dolph did not think that that was exactly right, but that was the condition on which he was summoned before Mr. Dolph made any remark, and I shall allow the examination to be conducted in that way. Proceed.

By Mr. WILSON:

Q. Where do you reside?—A. Alabama.

Q. How long have you lived there?—A. Since 1870.

Q. What is your occupation?—A. I have been a contractor in the improvement of rivers and harbors, and railroads, etc.

Q. And how long have you been engaged in that business?—A. Ever since the termination of the war in 1865.

Q. Are you the General Slaughter who is so frequently mentioned in this evidence as having relations to this case?—A. Yes, sir.

Q. State what your relations to it are, please.—A. Well, I can give you a little history of how it came about. Mr. Mariscal, minister of Mexico—I had just been in command on the Rio Grande—

By the CHAIRMAN:

Q. Of the Confederate forces?—A. Yes; and while in command of the Rio Grande I had an agreement, a treaty, on one side and the other, both with the French, or rather the Imperial, forces and the Liberal forces, by which we were to make a surrender of criminals escaping from one side of the river to the other, and also to investigate any outrages committed by people of one side on the citizens of the other side, you know, and redress them immediately. It had been alleged that a large amount of cotton had been captured while I was in command there by the Mexican forces, and a claim had been put into the Mexican commission by a man by the name of Weil, and the Mexican Government asked me if I knew anything about it. I said that I did not; that Mr. Weil was in my office every day. I could confer authority—one of our means of raising revenue was to tax every bale of cotton exported \$5, and it required the signature of myself or my agents before any cotton could be exported. In that way—

Mr. WILSON. Will you pause there a moment? As I have no relations to the Weil case, I do not want to bring out any testimony about it.

The CHAIRMAN. This would not bear on the Weil case as evidence at all.

Mr WILSON. I simply want to say that I hope he will not speak of any transactions connected with the Weil case.

The WITNESS. I merely say that the institution of the Weil case brought me in contact with the Mexican Government, and they asked me if I could get up the evidence with regard to the Weil case. I told them yes, and I did so, and then they asked me with reference to La Abra case.

By Mr. WILSON :

Q. Will you please state what time this was—this transaction that you have been talking about; the history that you have been talking about; what period was that?—A. It was about the spring of 1876.

By the CHAIRMAN :

Q. Where were you then?—A. In Washington City here, and visiting at the Mexican Legation. That led to their asking me—late in 1876 they begged of me to see if I could not help them in the case of La Abra. I told them I did not know anything about La Abra; I had never been into Durango in my life; and they said they were satisfied it was a fraud of a claim, and they were afraid if some stranger got hold of it—they employed some stranger to get up the testimony—that he would get up the testimony and sell it out. They put it on that ground, and I told them I would do what I could. I would not promise anything. I did not know where to commence or how to go about it, and would not promise anything, but would undertake it to the best of my ability.

Q. Well, you undertook it?—A. I undertook it; yes.

Q. Did you have a contract with them about it?—A. Yes.

Q. Have you that contract?—A. Yes.

Q. Are you willing to let us look at it?—A. Yes.

Q. Let us look at it, please.

Mr. FOSTER. Mr. Chairman, I do not interrupt this investigation to object to the production of this contract if the committee think proper to have it produced at this time and under the circumstances of this investigation. We have been endeavoring to obtain certain books, records, and papers of La Abra Mining Company, and in that effort we have been frustrated at every point by the representatives of that company. We discovered in our investigation that a suit had been brought by parties in this District against La Abra Company, and they had entered appearance in that suit. In the suit we discovered that an agreement with Alonzo W. Adams was produced. A copy of it was filed, and also a subsequent agreement, and we discovered that those copies had been withdrawn from files; but when we brought before the committee a certified copy of that bill setting forth that agreement, we have been met by an objection on the part of the representatives of La Abra Company, and they have resisted any attempt on our part to get this agreement properly before the committee, and although a certified copy of the bill in equity was allowed to be printed, subject to objection hereafter, counsel have objected even to our reading any extract from that bill to refresh the memory of a witness who was an officer of the company. I repeat that I do not make this interruption at this time for the purpose of objecting to the production of this agreement if the committee think it desirable to have it. Mexico is not here to conceal any of her transactions which are proper to be inquired into.

The CHAIRMAN. Well, if there is no objection, the paper can be produced.

Mr. WILSON. Let us see it, general, please.

(The paper was handed to Mr. Wilson.)

By Mr. WILSON:

Q. Is this the original or a copy, general?—A. It is a copy. I undertook to say I had this letter and I proposed to bring the original with me, but I got a telegram from Mr. Foster, saying the committee wished to adjourn, to come at once. If I had delayed one day I could have got the originals, but knowing these copies were here, I came off without them.

By the CHAIRMAN:

Q. Is that a true copy?—A. That is a true copy, sir.

By Mr. WILSON:

Q. Now, general, since this contract have you had charge of the prosecution of this matter before Congress and in the Departments?—A. Yes, sir.

Q. And still have charge of it, have you?—A. Yes, sir.

Q. Now state whether you have employed persons to assist you in that matter?—A. Yes, sir; I employed Mr. Lines to assist me.

Q. When?—A. I employed Mr. Lines soon after signing the contract; I forget what day.

Q. Well, do you know whether the Mexican Government pays anybody excepting yourself?—A. No one at all, I think.

Q. Do you know a man by the name of Green?—A. Yes.

Q. Did you employ him to assist you?—A. I sent Green to Mexico to get that press letter copy-book.

Q. When was that?—A. That was a short time after I signed that contract. I sent him immediately afterwards. I had never seen Green since I met him in Mexico. I had never heard of Green being in the case at all. I accidentally met Mr. Green here in Washington, and I had known him in Mexico, and known his brother very well. I walked over to Willard's with him and took a drink and asked him if he knew anything about this business. He told me he did and went on to tell me what it was; said he thought it was a fraud, and all that sort of thing.

Q. We do not care anything about that.—A. I asked him, "Green, can you get me the evidence of this thing." He says, "Yes, I can." Says I, "Would you be willing to go to Mexico and get these papers for me?" He said, "Yes; I would." I said, "When will you go?" He said, "Any time." "Very well," says I, "I will pay your expenses and send you out there and give you so much if you will go out and get these papers." And I sent him, and he furnished the Mexican Government—did not furnish me—but in reply to my sending him out there this press letter copy-book was sent back through the Mexican Government to Washington, directly here. It did not come to me at all.

Q. Now, did you have any written agreement with Green as to what he was to do?

Mr. FOSTER. I object. I think we have got to a point where we must object. We consent very cheerfully to their developing the arrangement made between the Mexican Government and General Slaughter, but I think, in view of the attitude which these claimants have assumed before this committee, that we must object to their going into a detailed examination of what arrangement General Slaughter has made with other persons on his own account in the execution of this contract.

The CHAIRMAN. Judge Wilson, do you wish the contract to go into the record?

Mr. WILSON. We have no objection to its going on record.

The CHAIRMAN. Well, is it offered by you?

Mr. WILSON. It will be offered, yes.

The CHAIRMAN. It will be put in the record.

The paper is as follows:

This agreement, made this twenty-ninth day of March, A. D. 1877, by and between General James E. Slaughter, of Mobile, Ala., party of the first part, and Señor Don Ignacio Mariscal, minister of Mexico to the United States, party of the second part.

Witnesseth, that the said party of the first part agrees, for the considerations hereinafter named, to undertake the proof of fraud in the claim of the La Abra Mining Company against the Government of Mexico, which claim is numbered four hundred and eighty-nine (489) on the docket of the Joint Commission of the United States and Mexico and has been adjudicated by the umpire of said Commission.

To this end the said party of the first part agrees to send an agent to Mexico for the purpose of securing testimony in proof of the fraudulent character of said claim; to pay the expenses of such agent as far as the city of Mexico; and to secure such assistance as may be necessary in preparing the evidence so obtained and presenting the same to the proper authorities of the Government of the United States.

The said party of the second part, acting for and in behalf of the Government of Mexico, hereby agrees to secure the payment by said Government of all expenses incurred by the said agent of the party of the first part after he shall have arrived in the City of Mexico; to see that all facilities are furnished by said Government to enable him to secure the necessary testimony, and to pay, by draft payable as herein-after specified, one-half of the expense incurred by the said party of the first part in the preparation of evidence and the presentation of the same to the proper authorities of the Government of the United States; provided, that such expense shall not exceed the sum of three thousand dollars (\$3,000.00) American currency.

And the said party of the second part further agrees, in consideration of the services above named, to pay to the said party of the first part, by drafts upon the national treasury of Mexico, payable in Mexican gold ten months after presentation at said treasury, a sum equal to ten (10) per centum of any portion of said claim which may be waived or finally withdrawn by the proper authorities of the Government of the United States, or of its total amount if it be waived or withdrawn in the same manner; said drafts to be drawn by the minister of Mexico at Washington immediately upon the final waiver or withdrawal of said claim or any portion thereof, as the case may be, by said authorities of the United States Government.

In witness whereof we have hereunto set our respective hands and seals this twenty-ninth day of March, A. D. 1877.

JAMES E. SLAUGHTER.
IGNACIO MARISCAL.

By Mr. WILSON:

Q. Do you know where Green is now?—A. No, sir.

The CHAIRMAN. Let me dispose of that objection, please.

Q. This agreement seems to intrust to you, General Slaughter, the procuring of evidence for the purpose of showing—A. The fraud.

Q. Showing fraud in the claim of La Abra Mining Company against the Government of Mexico?—A. Yes, sir.

Q. Did any Mexican authority, any minister of Mexico, or any other person representing the Government of Mexico have any connection with your employment of Green?—A. No, sir.

Q. It was your own private affair?—A. My own affair, sir.

The CHAIRMAN. Well, Mr. Foster, you object to the contract made with Green, do you?

Mr. FOSTER. I object to any inquiry as to the character of the contract which General Slaughter makes with individuals in pursuance of his arrangement with Mexico.

The CHAIRMAN. Well, I think it is incumbering the record without any necessity, putting in these private arrangements that Slaughter may have made with his subagents—men employed by himself.

Mr. FOSTER. What would you think, Mr. Chairman, if we brought Mr. Garth here, or when Mr. Garth was here, or Mr. Baldwin, the presi-

dent of the company, we had pressed them to a full account of the condition of their arrangement with Shellabarger & Wilson, or with the host of other attorneys that are now, or have been, connected with the case?

Mr. KENNEDY. Mr. Chairman—

Mr. FOSTER. It is an inquiry that is not pertinent to the investigation which is intrusted to you.

Mr. KENNEDY. Mr. Chairman, that is just what was done. Both Mr. Garth and Mr. Baldwin were strictly interrogated by our friends on the other side in regard to the agreement that was made by La Abra Company—

Mr. FOSTER. With Adams.

Mr. KENNEDY. And General Adams, and also in regard to the expense account, not only before the award was rendered, but after the award was rendered; and we are simply following our friends in interrogating General Slaughter in regard to his agreement with the Mexican Government, and, after we have established his agency in the matter, then we want to ascertain what persons, if any, he authorized to prosecute this employment, in order that we may get those persons, especially this Mr. Alfred A. Green, who, you will remember, is the person that told Dahlgren that Adams had said that Dahlgren had been paid a large sum in gold for his testimony.

Now, it seems to us that the moment we have established that General Slaughter is an employed agent of the Mexican Government, it becomes relevant to inquire what subagents he employed and what the conduct of those subagents was in this matter.

The CHAIRMAN. That is not at all capable of being proved merely by the fact of Mr. Slaughter having made a particular contract with one of his subagents to do a particular thing. If you can show that Mr. Green or any other subagent for Mr. Slaughter has done anything of a corrupt nature in getting this proof which is calculated to reflect upon the credit of the testimony that is right enough.

Mr. KENNEDY. That is what we expect to show through Mr. Green, and we want to establish Mr. Green's agency by having Mr. Slaughter produce the agreement that he, as a representative of the Mexican Government, made with Green.

The CHAIRMAN. I do not understand that General Slaughter, as the representative of the Mexican Government, made any agreement with Green. If the Government of Mexico could be connected in any way with any transaction between Mr. Green and Mr. Slaughter, it would have some effect probably upon the bona fides of its conduct, the manner of conducting its business in a way that is not legitimate, but I see no evidence of it at all and I can not see how the contract between Green and Slaughter would be a material fact in this case unless you show that some fraud was perpetrated by Green.

Mr. KENNEDY. We have affidavits on that point, Mr. Chairman, and at the proper time, when we ask for a subpoena for Green, we will read those affidavits.

The CHAIRMAN. Where is Green?

Mr. KENNEDY. We have been trying to find him, and our last information is that he is temporarily in New York.

The CHAIRMAN. Is he there now?

Mr. KENNEDY. Yes.

The CHAIRMAN. Do you want a subpoena for him?

Mr. KENNEDY. Yes.

The CHAIRMAN. Do you want it now?

Mr. KENNEDY. Yes.

Mr. WILSON. Better take it right away, because if he is only temporarily there we may not get him.

The CHAIRMAN. How long has he been there?

Mr. KENNEDY. My information is not—

Mr. FOSTER. Have you any information he is there now?

Mr. KENNEDY. Yes. I do not vouch for the correctness of the information, but I was informed by some one who has been trying to find Green for us, that he was recently in New York, and if we have the subpoena, of course we will do our best to locate him, so that he can be served.

Mr. FOSTER. There is quite a difference between our attempt to prove what the expenses of La Abra Company have been in reconciling the discrepancy in their reports, which was the connection in which we made those inquiries, and an inquiry as to the character of or conditions of a contract between Slaughter and some subagent of his, which does not enter into the question of expenses which Mexico has incurred, even if that was a pertinent inquiry.

The CHAIRMAN. Notwithstanding, if any witness here should testify that the Mexican Government had in any way obtained testimony which was false and fraudulent in regard to this transaction, then it would be legitimate, as supporting evidence to that fact, that this agent, or Mr. Slaughter, even, who was employed by him under Mexican authority to obtain this testimony, if that agent had a contract which amounted to a great inducement to him to commit these acts, though until that appears, of course I could not admit this as evidence in the case. I will rule out the question of the contract between Slaughter and Green until it appears in some form or other that Green has done something that is corrupt in obtaining this testimony.

By Mr. WILSON:

Q. General Slaughter, when did you first know Mr. Green?—A. I knew Green, I think it was in 1866, in the City of Mexico.

Q. How long before you entered into this contract; is he the man you were to send as agent; is Green the man referred to as agent in the contract?—A. No; he had nothing to do with that contract.

Q. I know. This contract provides:

To this end the said party of the first part agrees to send an agent to Mexico for the purpose of securing testimony of the fraudulent character of said claim.

Who was the agent?—A. I had no idea at that time.

Q. Had no idea at that time?—A. No, sir.

Q. Well, when did you select your agent?—A. I sent Green as soon as I saw him. I don't recollect exactly; eight or ten days afterward. I know I looked upon it as a great piece of good luck.

By the CHAIRMAN:

Q. Eight or ten days after what?—A. After signing that contract.

By Mr. WILSON:

Q. Well, Green is the man you selected?—A. Yes; but when that contract was signed I did not know where Green was. It never occurred to me.

Q. But when you did see him—A. As soon as I saw him I thought I was very lucky. When I first saw him I did not think of sending him to Mexico; but I met him and shook hands with him and went and took a drink and talked with him. He said he knew all about La Abra.

Then it was I thought myself very lucky, and made up my mind immediately to send him if I could get him.

Q. And he went?—A. Yes.

Q. And he is the man who went as your agent, as indicated you were to send by this contract?—A. Yes, sir.

Q. Did you send any other agent than Green?—A. No, sir.

Q. Can you tell us about the time that you sent Green? I believe you said about ten days after the signing of your contract?—A. It was a short time afterwards. He said he was willing to go at once, and I sent him to New York and shipped him by steamer.

Q. Now, do you know whether he is the same Green that had a claim against Mexico and had been defeated in it?—A. I subsequently learned about that; yes, he was.

Q. Did he talk to you about that before he went down there?—A. Never. I think when I first mentioned that I intended to send Green that Mr. Mariscal told me something of a scene which had taken place between Green and the British minister, and I remarked to Mr. Mariscal—Mariscal said something about it—that I did not care; that I was sending Green out there for certain papers that Green said he could get, and, if he got those papers, those papers were what I wanted.

Q. Did Green describe the papers to you before he went away?—A. No; but he said he could get all the records of the company.

Q. But he went out for such evidence as he could get?—A. He went out to get the records of the company.

Q. Anything else?—A. No, sir; only the records of the company. That was the only thing he mentioned to me; that he could get the records of the company.

Q. And that is all?—A. All that I expected him to get was the records of the company.

Q. But he went out as agent?—A. Yes; went out as my agent to get the records of the company. He said he knew all the parties at the mines; he had been to the mines, and I think he said that he had formerly an interest in the mines, and that if—as I recollect he said—if I would look up the findings I would see that they only claimed for a certain number of shares in the mine. They did not claim for the whole mine, and that those shares that were not claimed under the award were his. That is as I understood him to say.

Q. Now, what other employments have you made in connection with the prosecution of this claim under your contract?—A. Under my contract? Well, I employed Mr. Lines under that contract, and set him to work at once, and I went to work myself to hunt up in every way. I took the letters when they came, read them over. I wrote to Colonel de Lagnel—

Mr. FOSTER. Well, we object to a general inquiry as to what he has done.

The CHAIRMAN. The inquiry was not as broad as General Slaughter's testimony. The inquiry is what other contracts he made with persons to obtain evidence?

Mr. FOSTER. Well, we object to that, unless they can specify the parties and show they have some relation to this inquiry.

Mr. WILSON. Why, that is in relation to this inquiry, because it is—

The CHAIRMAN. I think that it is.

By Mr. WILSON:

Q. Well, what other persons?—A. I don't recollect employing anybody else; don't recollect employing any human being.

Q. You never employed any attorney or agent except the two you have named?—A. No, sir.

Q. Did you employ or authorize the employment of these detectives in New York?—A. No; I did not, but of course I approved it after it was done

Q. You knew nothing about it at the time?—A. No, sir; not at the time.

Q. You met the man Fisher who was here this morning, I suppose, in New York?—A. Yes, sir.

Q. Did he accompany you to the Mexican minister?—A. I think he did. I was trying to recollect this morning. I think he did. We had a conversation together, and I think he did, but I don't recollect.

Q. Do you recollect what occurred?—A. I did not take him to the Mexican minister with a view of his telling the Mexican minister anything, because when he mentioned to me the \$25,000, it was a question that I dismissed immediately; that I had no idea—my only object in going to New York was to prosecute, and that was all.

By the CHAIRMAN:

Q. Prosecute what?—A. Prosecute Mr. Exall.

Q. For what?—A. For perjury. I thought I could get the evidence showing he had been guilty of perjury, and I went to Judge Grandon and consulted him about the law as to perjury. My whole object was to get evidence to bring him to trial.

By Mr. WILSON:

Q. Do you know any other agents that were employed in New York than Fisher and Weed?—A. I do not. I do not even recollect much about Mr. Weed. I went to New York. When I first went there I am not sure whether it was Weed or Fisher that went with me to get the signature of Exall certified to in the press-letter copy-book. I took the press-letter copy-book with me and went over to New York and wanted to get evidence that that was the signature of Exall to these letters, and went around with some detective; whether it was Fisher or Weed I don't know, but Mr. Lines gave me a letter to him, I think, and I hunted him up and went with him around to these gentlemen to get them to certify to the signature.

Q. Then you know of no other agents in New York than Mr. Fisher and Mr. Weed?—A. None other, and Mr. Weed, I don't know that I ever saw him; I don't recollect.

Q. Did you have any correspondence with Green while he was in Mexico?—A. Green wrote me a letter telling me that he had sent this book.

Q. That is all the correspondence?—A. That is about all; yes; I don't recollect any other. Yes; he wrote me a letter, too, when he first arrived at the city of Mexico, that he had been detained there and would leave the next day; that he had seen nobody and would leave the next day. I directed him to get letters to certain people in Mexico—letters of introduction—so as to facilitate his movements, and he wrote that he had arrived, but had not been able to see any one. I think that was the substance of his letter. I think that was about all.

Q. Did he write anything to you about obtaining testimony at Mazatlan?—A. I think not.

Q. Depositions or affidavits?—A. I think not. In fact, I know he did not.

Q. And did he say anything about his interview with Dahlgren?—A. No, sir; nothing at all.

Q. Have you the letter that Green wrote to you while he was in Mexico?—A. No, sir; I think I sent all the letters I had from Green to Mr. Lines. I don't recollect, but I did not keep them. I don't know. There was nothing in the letters at all, and I did not keep them.

Q. Well, you have not them now?—A. No, sir.

Q. I wish to ask you whether that is the only agreement you have with the Mexican Government?—A. That is the only agreement in this case.

Q. I am confining myself to this case. I do not want to meddle with the Weil case, because I have nothing to do with it?—A. That is all, sir; no, I have no agreement.

Q. Have you any letters, general, from the Mexican minister in regard to this matter?—A. Yes; I have a good many letters, but I don't think any of them are of any importance whatever.

Q. Well, I did not ask you anything about their contents or anything of that kind, because there may be a question—

A. Well, I have been writing to Mr. Mariscal, off and on, semi-private, semi-official letters.

Q. Have you from any other officer or official of the Mexican Government letters?—A. No, sir; I think not.

Q. Have you brought with you any papers in connection with this?—

A. No; I was just going to say to the committee that I would have brought all the papers of every kind and description, but I got a telegram from Mr. Foster that the committee was about to adjourn and not to delay coming; so I thought, knowing that copies of these papers were here, and the others, what I had, were of no importance whatever, I came off without them.

Mr. FOSTER. I would like to say here that I was not aware of the existence of any such letter as this at the time that I telegraphed to General Slaughter. I did it in the interest of the investigation, to get him here as speedily as possible.

The CHAIRMAN. I asked you to do it, General Foster. I recollect that very well.

Mr. FOSTER. And I had no knowledge of these papers and it threw me off my guard, as I would not have asked him to come without bringing those papers if such a request had been made; in fact I would have objected to such a request if I had had an opportunity to do so.

By Mr. WILSON:

Q. Are you going back to Mobile?—A. Yes.

Q. Immediately after we adjourn?—A. Yes.

Q. I do not want to hurry you off on Washington's birth-day or anything like that.—A. Yes; I am going off immediately.

Q. Well, could not you send those papers to Senator Morgan, so that if on inspection we find anything there we want to put in we could raise the question at least as to whether or not they are competent evidence.

By the CHAIRMAN:

Q. I first ask you whether you are willing to submit your correspondence to the committee?—A. I do not wish to unless the committee desires.

Q. The committee have no desire about it. In the case of Kilbourne I understand the Supreme Court held that mere private papers, that did not touch in any way the case, the committee had no right to compel the production of by the witness.

By Mr. WILSON:

Q. I am entirely agreed to that, and I would not, if it was a matter

that was simply between him—a mere private matter—between him and somebody else, of course I would not insist upon it, unless there was something that actually bore upon the very question that is in dispute here; I recognize the doctrine—

The CHAIRMAN. I do not see how any admission of an agent of the Mexican Government, unless he had some connection with the mines out there, some personal knowledge of what occurred at the mines, would produce any impression as evidence. It would be his opinion about things.

Mr. WILSON. No; I am not talking about that. I am talking about what may or may not have been done by the Mexican authorities.

The CHAIRMAN. To get evidence?

Mr. WILSON. Yes; to get evidence. That is what I am talking about. For instance, General Slaughter had this contract. Now, they are undertaking to execute this contract, and whatever was done as between any Mexican officials in contemplation of this—

The CHAIRMAN. There is another rule that I do not know whether to apply in absolute legal strictness to General Slaughter's position, but he held toward this Mexican Government, under this contract, a confidential relation, and he might have a right to suppose that anything said to him might be respected under that confidence.

Mr. FOSTER. It was upon that basis that I object to his calling for correspondence between the Mexican minister and General Slaughter. This correspondence, if it existed, it is natural to suppose, related to the policy to be pursued in this investigation. It did have very much the relation of counsel to principal.

Mr. WILSON. Well, it does not come within the rule of the law.

The CHAIRMAN. Well, I will just say this about it: If General Slaughter sees proper to send to the committee any papers that relate to this subject the committee will consider them and determine then, when they see the papers, what they will do. There is no particular paper pointed out; nothing communicated as to any act of the Mexican Government in procuring testimony that was at all improper, as far as I have heard, and I can not say in advance that I would put the papers in the record, or would not, and can not say I would require him to produce them, and unless—

Mr. KENNEDY. I think we would be willing to leave it with the Chairman.

Mr. FOSTER. Well we would like very much to have the same arrangement made on the other side, if possible. If we could get the books, papers, and correspondence that your company possessed, we would be delighted.

The CHAIRMAN. I asked General Slaughter what his function was. It is not the mere fact of his occupying the function of an attorney-at-law that creates confidence and gives the protection that that rule of law is designed to give, but it is the confidential relation.

Mr. KENNEDY. Does not that apply to General Adams and La Abra Company as much as it does to General Slaughter and the Mexican Government?

Mr. FOSTER. I suppose it does, but General Adams is not here.

Mr. LINES. You have chosen to have General Adams's contract spread on the public records of courts. That is where we got it.

Mr. KENNEDY. No, you got out of Mr. Garth and Mr. Baldwin both, not only that there was a contract between Adams and La Abra Company, but that he was to receive one-third of the award for his services in collecting the testimony in Mexico.

The CHAIRMAN. Yes; but you see, Mr. Kennedy, General Adams went around with his interpreter and clerk and personally examined the witnesses in the presence of the different consuls, which depositions are to a considerable extent attacked here with being corrupt. Of course the agent who was present taking the deposition is open to be impeached in any way in the world that evidence can impeach a man, and if you can show that Mr. Slaughter took testimony, depositions, anything of that sort, if you can prove here this agreement or what his agreement with the company was, I will let that go in.

Mr. KENNEDY. Well, how about Alfred A. Green, who is a subagent of the general; I do not know about any testimony impeaching General Slaughter's conduct at all, but I do know that we have affidavits going to show that this man Green tried to suborn perjury in Mexico. We have those affidavits and that is one reason why we are anxious to have Green before the committee.

The CHAIRMAN. Well, you shall have Green. Just give his name and address now, and we can send for him immediately by telegraph.

Mr. WILSON. Well, now so far as General Slaughter is concerned I am perfectly willing under the circumstances that he shall, if he is willing to do it, send these papers to the committee, and then we can determine the matter.

The CHAIRMAN. Send any papers you choose to me, General Slaughter—I do not require it of you, send them to me and I will protect you.

The WITNESS. I do not think there will be any trouble.

The CHAIRMAN. Well, send them on and I will see that you are protected.

Mr. FOSTER. I want to say that Mr. Lines's name has been connected with this investigation repeatedly. The counsel for La Abra Company have brought his name into this investigation through copies of his letter or copies of letters which purported to be his, and in other ways his name has been used frequently. Mr. Lines is ready to be sworn and answer any question that the committee may see proper to put to him. I feel it is incumbent upon us to afford the committee this opportunity.

The CHAIRMAN. Well, Mr. Lines is a lawyer and knows, of course, the bearing of what has been said about his management or conduct of this case would be, and I am entirely willing to give him an opportunity to make any statement and to be sworn if he pleases.

Mr. KENNEDY. I suppose, Mr. Chairman, he waives his privilege as counsel if he is sworn.

The CHAIRMAN. I do not know anything about that.

TESTIMONY OF ROBERT B. LINES.

Mr. ROBERT B. LINES, sworn and examined.

By the CHAIRMAN:

Q. Now, Mr. Lines, you can proceed in your own way and state anything that you think is necessary to show your connection with these several transactions which have been brought into the evidence in this case in respect of obtaining papers or depositions which have been submitted to this committee.—A. Since my engagement in this matter—

Q. By whom?—A. First by General Slaughter, and subsequently by the Mexican Government. Perhaps I should preface my statement by saying how that came about. At the time I was engaged with General Slaughter there was a conference between him and Mr. Mariscal, min-

ister of Mexico, and myself, and it was understood that when Mexico should find a *forum* in which to present her case in this matter I was to appear as one of the counsel for the Mexican Government. Since that employment I have never at any time in conversation or in correspondence with anybody sought to obtain oral testimony, or I should say, perhaps, offered or proposed to offer any compensation to anybody for furnishing oral testimony on behalf of the Mexican side of the case. The first thing that struck me upon examination of the case was the declaration of the umpire that neither books nor reports had been—

Mr. KENNEDY. Mr. Chairman, I do not think the witness should give us his views of the case.

The CHAIRMAN. The witness is going to say, as I understand him, as to what drew his attention to the necessity of getting the books and the papers of La Abra Company.

Q. What was it?—A. The declaration of the umpire in his award that no books and papers had been produced, and no reason had been given for there non-production; that was what led me to advise that probably books and papers were in existence and could be procured from some person who was or had been an agent or officer of the company. In addition to that was the fact, which was then well known, that in the other case, which has been referred to, documents purporting to be original books and letters had been produced by General Slaughter. My efforts, therefore, so far as they related to the procuring of testimony, were directed solely to securing documentary evidence, and mainly to securing documentary evidence of that character. By that I mean evidence which, as I conceived the case and understood the declaration of the umpire, had been suppressed by the claimant before the commission, and therefore competent under the well known rule of law on the subject of new trials. I do not think that I will say any more at present unless in response to questions.

Q. Did you ever offer any money or reward to any person for producing documents?—A. I never did, sir; neither directly nor through an agent.

Q. A letter of yours, or a letter that Mr. Kittelle said he understood had been written by you, has been referred to. It has not been produced, but he has given his recollection—certain extracts which he said were communicated to him or read to him by Mr. Fisher—

Mr. KENNEDY. Weed?

By the CHAIRMAN:

Q. Or Mr. Weed. Have you any recollection of writing a letter of that kind to Weed?—A. I never wrote a letter to Weed in my life.

Q. Never did?—A. No, sir.

Q. Do you know Weed at all?—A. No, sir.

Q. Did you ever see him?—A. Never.

Q. Or ever have any correspondence with him of any kind?—A. No, sir.

Q. Well, did you write any letter to Fisher in which a proposition was made to pay money to Exall for any purpose?—A. No, sir.

Q. Did you ever authorize Fisher or Weed or any other person to make an offer to Exall of money for giving his testimony or producing documents that might bear upon this case?—A. I authorized—or perhaps I should say requested—Fisher, upon learning that he had “located” Exall, as he phrased it, to ascertain, if possible, if Exall had papers or books, authentic and original, of La Abra Company. I said to Mr. Fisher, either at that time or subsequently, that if such evidence

of a documentary character could be found in the possession of Mr. Exall or of anybody else, that I should certainly recommend to the Mexican minister or to General Slaughter that it be purchased and paid for, and I had in my mind then the illustrious precedent which had just been given by the United States Government in reference to the purchase of papers in Canada (of General Pickett, I think it was), for which an appropriation had been made by Congress; and I thought it a safe precedent for me to follow, and also think it a perfectly straightforward and honorable course.

Q. Had the papers that were obtained by Green in Mexico then been secured?—A. At the time of my first interview with Fisher nothing had come, to my recollection, from Mexico as the result of Green's efforts.

Q. Well, had any other papers come from Mexico?—A. I think not, sir.

Q. Well, had you any reference to records of the company kept in Mexico that you were trying to get, or were you trying to get records that were kept in New York?—A. I supposed that Exall, after I learned that he was in New York, might have papers that he had brought with him from Mexico, or might have papers belonging to the company in New York. In either case I thought it was a fair subject of negotiation. I might add, if no further question occurs to the chairman, that I was of the opinion that the proper course, or the most effective course, would be to procure indictment of the principal persons concerned in what I thought to be a fraudulent claim, and I studied the subject up somewhat in company with General Slaughter: I think we visited a gentleman from Mobile, who was then practicing law in New York City, at the New York Hotel.

Q. Judge Grandin?—A. Judge Grandin, yes. Whether he is alive now or not I do not know. By him we were recommended to retain a gentleman in New York, whose name I do not care to give unless the committee desire it, who was said to be an intimate friend of the district attorney. We did not consider that recommendation, but did visit the district attorney. I think I went on several occasions, and I thought I had found authority in an old reported case; the case of *Roget vs. The State*, for laying an indictment against Exall, Adams, and Ely, perhaps—those whom I considered to be the prime movers in the conspiracy. The matter of the indictment for perjury I am not at all clear about. I do not remember that that question was ever considered in relation to proceedings in New York. I do remember that I had a consultation with the district attorney of the District of Columbia, Governor Wells, on the subject first of the conspiracy indictment; some of these affidavits having been here and—

Mr. WILSON. What is the purpose of all this statement?

The WITNESS. Well, I am ready to stop at any moment.

The CHAIRMAN. Mr. Lines was going on, not under any question that I had asked him, but to make a statement which I supposed had some purpose. I do not know myself what it is.

The WITNESS. Well, it simply shows my attitude in the matter as one of the people referred to.

By the CHAIRMAN:

Q. Well, I understand you to say, Mr. Lines, that you expected to prosecute Exall for perjury if you found you had a legal foundation for proceeding?—A. My idea was to bring an indictment against all the parties concerned for conspiracy. I find a letter from Mr. Phelps, district attorney—

Q. You need not put it on record.—A. Well, the answer of the district attorney was not encouraging, and he said he would not recommend it.

Q. On the ground was it that he could not maintain it; some legal difficulty?—A. That the crime was, under the statute, one affecting the course of justice in the courts of the State; that the statute would only provide for the punishment of conspiracy. If you will allow me, I will refresh my memory.

Q. Oh, yes, refresh your memory with whatever you please.—A. That it referred only to the conspiracy to maintain a suit in the courts of the States.

Q. And not of the United States?—A. Not before a commission of this character. As to the statutes of the United States on that subject, I was advised by the district attorney in Washington that there was none.

Q. Well, thereupon you abandoned, I suppose, your purpose to prosecute anybody for conspiracy?—A. Perforce; yes, sir.

Q. Is there anything else you wish to state about this case?—A. I do not recollect anything at present.

The CHAIRMAN. You can examine him, Mr. Kennedy.

By Mr. KENNEDY:

Q. You say that you have two contracts with the Mexican Government, if I understand you?—A. I beg your pardon; no, sir; I will repeat what I said if you wish.

Q. Yes, I understood you to say that you had one with Mr. Slaughter and one with the Mexican Government?—A. Well, I do not think I referred to them as contracts. I had a contract with Mr. Slaughter, and an understanding, at the time I undertook the matter, that when a case should be prepared upon which Mexico proposed to move in the matter, requiring the assistance of counsel, that I should be one of the counsel, and that was a mere verbal understanding with Mr. Mariscal.

Q. I would like to ask you whether the contingency that was understood between you and Mr. Mariscal, to wit, the opening of a forum for the Mexican Government, in which counsel would be necessary or desirable, whether that has happened?—A. Well, I am a little in doubt as to that, Mr. Kennedy. I think—considering this committee as a forum—I think this is the first place where we have reached the taking of testimony.

Q. What I want to get at is this: That outside of your employment by Mr. Slaughter, you are now acting under that understanding which you have mentioned with the Mexican Government?—A. There is in the record a note from the Mexican minister to the Secretary of State introducing myself as one of the counsel of the Mexican Government.

Q. That is all. I have no desire to press that any further. Now, you have said, if I understand you, that you did advise the purchase of any documents as distinguished from depositions which might be of service in impeaching La Abra award. Is that right?—A. I think I said that I should have done so, and so stated to Mr. Fisher.

Q. Yes. Well, now will you tell the committee whether you gave Mr. Fisher any instructions in regard to immunity for Exall or anybody else that might be compromised by new evidence?—A. I am very glad you asked the question, sir. I never did.

Q. Now what did you mean when you suggested in one of your questions to Fisher one way of protecting Exall, to wit, that he might flee

the country ?—A. Well, it never occurred to me before to-day, sir. The point was, as the record will show, what Fisher meant or had in his mind when he made the statement to Exall that Exall's embarrassments might be overcome. I wanted to find what he meant by that and suggested this, perhaps improperly.

Q. So that you thought that the witness Fisher might have suggested that as one way by which Exall could be saved harmless ?—A. That was all, sir.

Q. And it was no instruction of your own or suggestion to the agent ?—A. Oh, no.

Q. Now, when you received the letter from Dahlgren in which he said that he had been informed that Adams had boasted that he had obtained Dahlgren's deposition by the payment of a good round sum in gold, did you write to Dahlgren and tell him how he could find Adams ?—A. I think I never wrote to Dahlgren. I am sure that I telegraphed to him.

Q. Do you remember, on the supposition that the telegram is lost—and I think Dahlgren testified that he had none of those papers—do you remember what the substance of that telegram was ?—A. I think I can give it pretty nearly ; and I would like to say at this point that my own copies of correspondence in this and in other matters do not go back of the year 1879, the latter part of the year. I have made examination of it with a view to this investigation. I telegraphed—one moment ; in Mr. Dahlgren's letter, I think that he referred me to General Sherman and to the Rev. Byron Sunderland as gentlemen who knew him. I called upon both of those gentlemen and I telegraphed to Dahlgren afterwards to the effect that he was badly compromised by his attitude in the matter, and I advised him to take all means to clear himself—to communicate, I think, with the House committee on Foreign Affairs, which then had this matter under investigation, and to put a statement in the newspapers.

Q. Did you give him General Adams's address as he requested you ?—A. I think not. I do not think I knew where it was.

Q. Well, you remember that he expresses a desire in that letter to be informed how he could proceed against Adams in court. Did your telegram take any notice of that request ?—A. Well, I can not recollect that it did.

Q. Well, you remember that in that letter Dahlgren said that he had been informed that his testimony had been perverted ?—A. Yes.

Q. By Alonzo W. Adams, and he asked you to help him ?—A. Well, suppose, Mr. Kennedy, without stating that, suppose we refer to the letter ; I would be glad to do so. It will refresh my memory on this point, I have no doubt. I have it here before me.

Q. Now, in the postscript of that letter Dahlgren says :

I understand said A. W. Adams boasted he had obtained my signature by the use of a "good round sum of gold." Advise me how I can bring him before a court to substantiate said statement.

What response, if any, did you make in your telegram to that part of Dahlgren's letter ?—A. Well, I can only repeat that I do not recollect making any response at all to that part of it.

Q. Did not you know where Adams was at that time, November 12, 1877 ?—A. I do not believe I did, sir. It is possible that I did.

Q. Now, I want to invite your attention to a letter of yours on page 634 of the present document containing the testimony.

I will read a sentence or two from that: "Exall is in New York."

This letter is dated January 17, 1878.—A. Before you pass to that, Mr. Kennedy, would you object to my stating by way of explanation why I may have neglected to answer that part of Mr. Dahlgren's letter.

Q. If you say you did neglect I have no objection to your making an explanation?—A. I would say that my impression is that I did not answer that part of it, but I would not be positive about it. I regarded the statement in Dahlgren's letter as a very extraordinary one, and I thought perhaps an improbable one; that he had allowed his testimony to be taken in rough notes in that manner and I thought that Mr. Dahlgren was much more concerned in the matter than the Mexican Government was, and for that reason I held no further communication with him at all, I believe, after sending him that telegram.

Q. Did you ever endeavor at that time or afterwards to obtain an affidavit from Dahlgren in regard to this alleged perversion of his testimony?—A. I think not, unless I told him in that telegram to send an affidavit. I may have done so.

Q. Well, what is your best recollection about that?—A. I can not say positively whether I did or did not.

Q. How long was that telegram?—A. Oh, it was, I should say, perhaps thirty or forty words.

Q. Where was Dahlgren then?—A. I answered to this address which he gave me in the letter.

Q. At San Francisco?—A. San Francisco, yes.

Q. Now, in this letter of January 17, 1878, addressed to Mr. Elder, you say to him?—A. What page?

Q. On the top of page 635 of the testimony.

Meanwhile we shall be at liberty to negotiate for any document you may have.

Among the most useful would be memoranda of assays, letters with regard to the failure of the company's funds, etc.

Q. Now, what did you mean to convey to Elder by the use of the words "we shall be at liberty to negotiate"?—A. I meant that if he had any authentic documents that I should recommend to the Mexican Government or to General Slaughter that they might be purchased of him.

Q. What did you mean by this, in the same letter:

But you may rest assured that there is no disposition to take advantage of your voluntary offers or to use your information which is of unquestionable value, to your prejudice?

A. Pardon me, Mr. Kennedy; there is no pause after the word "information."

Q. I see there is not.—A. I meant that if Elder produced documentary evidence which we considered valuable, and for which he wanted to be paid, that if there was no offer made to him or no bargain struck with him for that sort of evidence, that no use should be made of the information which we might obtain by examining it.

Q. Now, you notice in one of Elder's letters that he claims that some agent of the Mexican Government had come within \$1,500 of the \$10,000 that he had named. If you have any statement to make to prevent any inference, if any might ever be drawn, that inasmuch as you had had correspondence with Elder you were that agent, you are free to make it.—A. Well, I only repeat what I said at the outset, that I never offered a penny to Elder or any other person for any evidence of any character.

Q. Then the negotiation to which you refer at the top of page 635

never took any such definite shape, so far as you are concerned, as Elder has stated?—A. No, sir; you mean as Elder stated in his letter?

Q. Yes, sir.—A. The letter to—

Q. No; his own letter to Bartholow?—A. No, sir; nothing in that at all. He never produced any documents. I never would recommend anybody to buy a pig in a poke—buy any documents without knowing what they were.

Q. But I think you were careful to draw the distinction between depositions and documentary proofs, that is, between purchasing a man's own sworn statement and documents that he may have in his possession?—A. Yes, sir.

Q. Now, in that same letter, on page 635, you say:

Exall is in New York; I have not his address, but my agents are in communication with him.

Will you state who your agents were that were in communication with Exall?—A. I referred to Fisher. He was the only man I knew in that—

Q. Well, you use the plural.—A. Well, that is not an uncommon thing, I suppose.

Q. Well, I want to get exactly what you meant to say, and if it is that you used the word "agents" when you really had but one agent, why, of course, you can say so.—A. That is what I meant.

Q. Now, you go on to say, referring to Exall:

And he shows, as I am informed, a disposition to purge himself of the false swearing, into which he was undoubtedly led by older rascals.

Who was it that gave you that information?—A. Mr. Fisher. He informed me that Exall claimed to have papers, documents, and to be willing to furnish them.

Q. No; but you say that—

He shows a disposition to *purge himself* of the false swearing.

What did you mean by that?—A. Well, I did not use that in the technical sense. I was not corresponding with a lawyer, and I meant merely that Exall showed a disposition, as I was informed, to furnish testimony which would show the truth of the matter.

Q. Well, do I understand you that if a man who had sworn falsely was willing to sell documents in his possession for a good round price that you would call that purging himself?—A. I would not call it so in a conversation between you and me, but in a letter of this kind I might do so. That was all I meant, at least, by the expression.

Q. Now, you say in that same letter—

I can get a letter to him, if you are willing to send it through me without dating it.

Why did you suggest that any letter from Elder to Exall should not be dated?—A. The previous letters which I had received from Mr. Elder put me somewhat on my guard—aroused some suspicion as to his sincerity in the matter, and I preferred not to be the means of putting him directly in communication with Exall.

Q. What was your object in suggesting to Elder that he should write any letter at all to Exall?—A. The suggestion did not come from me. The suggestion came from Elder; that is to say, the request came from Elder for Exall's address, and this was in reply to that request.

Q. Now you say to Elder—

Granger is coming down with original papers which are arriving from Mexico. How had you been informed at that time of Granger's expected arrival with papers?—A. Well, the words "coming down," Mr. Kennedy, were

used in a peculiar if not a technical sense. I did not mean that Granger was coming from Mexico with the papers, but that he was giving up original papers. That is the interpretation to put on the words "coming down with the papers."

Mr. FOSTER. In other words shelling out.

The WITNESS. That is it.

By Mr. KENNEDY:

Q. Oh, yes; I accept that color to those words; it is an ordinary off-hand expression. You say—

Granger is coming down with the original papers which are arriving from Mexico.

What papers were then arriving from Mexico?—A. The press-copy book I think had reached here by that time and the other original letters.

Q. But why did you say that *Granger* was coming down with those papers?—A. I knew from information which I received that these documents had been procured from Granger.

Q. By whom?—A. As I understood it by the Mexican district attorney or the officer corresponding to a district attorney here.

Q. Well, you have heard General Slaughter's testimony on that point, have you not?—A. I have; yes.

Q. Well, do you say now that it was by direct negotiation on the part of the Mexican district attorney with Granger that those papers to which you refer in this letter were obtained?—A. That was my understanding; my recollection I think is clearer than General Slaughter's upon that subject, as I was in Washington and he was not, and it differs from his. I can go on and complete the statement if you desire it.

Q. No; I leave that with yourself.—A. Well, I would prefer to do it. I heard from Green in San Francisco—

Q. By letter?—A. By letter, I think; yes, sir, to the effect—; of course I do not want to state this if I can find the letter. I have not made any search for it.

Q. Well, suppose you make a statement about the whereabouts of the letter first.—A. Well, it may be in my office. I will not be certain, but at any rate I informed the Mexican minister that it was reported to me that important documents existed at or near the mines—the original books and papers of the company—and that Mr. Green desired a remittance to him in order to enable him to go back there and procure them. I suggested to the minister that if Mr. Green could get these papers the Mexican officials could probably get them, and I was not very much in favor of recommending him to send Mr. Green back to Mexico.

Q. Did you understand that Green had been at San Dimas and had tried to obtain those papers?—A. I understood that he had been there and discovered the existence of those papers and had come back to San Francisco, and wanted some money to go back to Mexico again.

Q. Well, did not you know at that time that Green was in General Slaughter's employment?—A. Oh, yes.

Q. Well, you say you went to the Mexican minister and discussed the advisability of sending Green money. Why did not you go to General Slaughter?—A. General Slaughter was then in Mobile, I think. At any rate he was not in the city, and our communications were not very frequent.

Q. Well, that is sufficient on that. Now, I would like to invite your attention to the alleged copy of a portion of your letter on page 636.—A. Yes, sir.

Q. (Reading:)

Exall is in New York, and I think in a few days we shall have his papers.

What made you think that?—A. Mr. Fisher had informed me that he believed that Exall had these papers and would show them—produce them; and, as I said, I conceived that if they were produced and were valuable that the Mexican Government would be willing to pay something for them; at least I should recommend it.

Q. Well, at that time was there any understanding, so far as Fisher informed you, between Fisher and Exall on that question of compensation?—A. As to what the understanding between Fisher and Exall was I don't know.

Q. What was it as far as Fisher informed you?—A. As far as Fisher informed me, no.

Q. Well, how came you say—

I think in a few days we shall have his papers.

A. I presume because I did think so.

Q. Yes; but my question means, did you think that in a few days you would have Exall's papers when you did not know that any understanding had yet been reached in regard to the matter of compensation?—A. Well, now, Mr. Kennedy, I want to say with regard to this letter, that I do not recognize this as a letter or a portion of a letter which I wrote to Mr. Elder. There are things in it which I undoubtedly wrote to him at some time and there are things in it which I am pretty positive I did not write to him.

Q. Well, will you point out what you are pretty positive you did not write to him?—A. The words underscored in the fifth line of the letter

Let me know what you will furnish the memoranda sworn to by you and Exall letter for.

These words "sworn to by you," I am very positive, were not in any letter I ever wrote to Mr. Elder.

Q. Well, do you mean to say that you were willing to negotiate for memoranda or letters to the truthfulness of which Elder would not swear?—A. Well, I mean to say that I was very careful from the beginning not to suggest or to intimate to any person whether he had been a witness in the case before or not; that he could secure any compensation for testifying orally to anything.

Q. Well, take his memorandum book in which the assays are said to have been recorded; do you mean to say that you would have advised the Mexican Government to purchase that memorandum book without some affidavit from the writer of it that the entries in it were genuine, made at the time, and were truthful?—A. I think I should; yes. We just wanted to get it, if you will permit me, with the expectation of proving it by other competent testimony; and that was precisely what I did advise with reference to the press copy book and the records obtained at the mines, that Granger, having been a witness for the company, should not be called upon to make any statement under oath in regard to them, and he was not.

Q. Now let me ask you whether Elder ever named a price for the memoranda in response to this request of yours?

Let me know what you will furnish the memoranda and Exall letter for?

We will omit the words "sworn to by you?"—A. No, sir; he never did.

Q. Did he ever answer that letter at all?—A. I think that the answer

to that letter, the letter of which that purports to be a copy of a portion, is in the record, page 115, Ex. Doc. 274. I will read it.

LONE PINE, CAL., March 4, 1878.

Mr. ROBERT B. LINES:

DRAR SIR: Yours of February 17, 1878, came to hand on the 1st instant, and in answer I will say that I will not at present dispose of the memoranda and letter you speak of. If the Mexican Government can not afford to pay its witnesses for time and traveling expenses, it will not get my evidence.

With all due respect, my dear sir, I am,

Yours, truly,

A. B. ELDER.

That is, as I understand it; my recollection is that that is the answer to whatever letter I wrote on the 17th of February. I did ask him—I wanted to get an offer from him.

Q. Now, you say again to Elder—

My agents are in communication with him in New York, and he is weakening very rapidly.

You repeat, I suppose, what you say about Mr. Fisher being your only agent?—A. Oh, yes; yes, sir.

Q. (Reading.)

I shall be glad to forward to him anything you may offer.

What did you mean by that?—A. Well, now, I don't think I used that expression.

Q. Did you use the next expression?—

I do not know his address, as everything is done through my agents.

A. I probably used something equivalent to that, for I did not know Mr. Exall's address.

Q. Now, I think you have stated that you are the author of that double-column presentation of Mexico's case?—A. I think so, almost alone. I don't remember that I had any collaborator in it other than clerical assistance.

Q. I would like to ask you whether, if you are the author of the remarks derogatory to the military record of General Alonzo W. Adams in connection with courts-martial which are referred to in that statement, you had read the record of those courts-martial at the time that you made those aspersions upon General Adams?—A. I had not read the records.

Q. Have you read the records since?—A. I think you have called my attention to them, and I can not say I have read them thoroughly, but I can say this, that I am very sorry to have said anything or been the means of publishing anything about a man that has turned out not to be true.

Q. Well, do you know now that in both of those cases General Adams was not only acquitted but his accuser censured?—A. Well, as I say, I have not read the records, but I am perfectly willing to take that on your statement, Mr. Kennedy; and having said what I did a moment ago, I should like to say this further in explanation.

Q. Well, I think what you have said is greatly to your credit and I am perfectly satisfied with what you have said on that point.—A. Well, I should like to put in an explanation, if the chairman will permit me, of the manner in which some of these things came into that record. I had, when that document was made up, been the subject of an attack in the House of Representatives, based upon these affidavits, which have been shown, of Mr. Kittelle and Mr. Ely, and these letters

which it appears were in the possession of General Bartholow and so on, and I felt considerably exercised about it and very sore. I had demanded of the member of the House who made this attack to see the papers on which he based it, and he had, as I considered, evaded my demand. He gave me a letter to General Bartholow asking Bartholow to give me the papers, particularly my letter, and on Bartholow's stating that he (Mr. Wilson) had the letters, Mr. Wilson declined to search any further for them and left me in that position of being attacked under the privileges of the House of Representatives.

Q. You mean Mr. Benjamin Wilson?—A. I mean Mr. Benjamin Wilson, yes. That was the occasion of my using some of this matter and it got in the record in the way in which it was used.

Q. Now, were you the author of the statement that General Adams's accounts were in arrears when he was discharged as quartermaster or from whatever office he held at the close of the Mexican war?—A. That statement came to me in a letter, which I think is in the record, from the Secretary of War, I believe.

Q. Now, I want to ask you whether you have ever seen this certificate of non-indebtedness from the Treasury Department, dated at the Third Auditor's Office, June 18, 1884, and printed on page 46 of this pamphlet, entitled "Arguments made before the House Committee on Foreign Affairs"? Perhaps you had better read it so that the stenographer can take it down. It is very short.—A. (Reading.)

Certificate of non-indebtedness.

No. 6993.]

TREASURY DEPARTMENT,
Third Auditor's Office, June 18, 1884.

It is hereby certified that the accounts and returns of Alonzo W. Adams, captain and A. C. S., United States Volunteers, * * * have been examined, found correct, and are closed.

This certificate is granted to satisfy the pay department that the above-named officer is not indebted to the United States on the books of this office at the date hereof.

E. W. KEIGHTLEY,
Third Auditor.

Metropolitan Hotel, room 164, city.

Q. Now, there is another certificate following that showing when the account was closed.—A. Do you wish me to read the whole of it or give the date merely?

Q. No; I think it is only fair toward this dead man that we should do something by way of reparation on the record.—A. (Reading:)

WAR DEPARTMENT,
OFFICE COMMISSARY-GENERAL OF SUBSISTENCE,
Washington, D. C., March 27, 1879.

SIR: Referring to my indorsements of December 17, 1877, and August 24, 1878, with reference to the accountability of A. W. Adams, who was captain and assistant commissary of subsistence of volunteers during the Mexican war, I have the honor to inform you that that officer's accounts have been closed on the books of this office, it having been ascertained since the date of my above-mentioned indorsements that the amount (\$109.40) previously reported as due the United States from him was satisfactorily accounted for by a transfer requisition (No. 7883) in the sum of \$139.60, dated February 23, 1849, and passed to his credit in a settlement made at the Treasury Department February 24, 1849.

Very respectfully, your obedient servant,

R. MACFEELEY,
Commissary-General Subsistence.

The honorable SECRETARY OF WAR.

Q. Do you notice that General Adams's accounts were closed in 1849, shortly after the close of the Mexican war?—A. Yes; I notice that.

Q. Now, I want to ask you, Mr. Lines, whether you ever saw these documents before?—A. I think I have seen those before, but when I do not remember.

Q. Now, Mr. Lines, are you aware of the fact that after these documents were exhibited to the Senate committee and to individual Senators, a report was printed in the name of the Senate committee that reiterated those charges growing out of the courts-martial and alleged shortage in the accounts?—A. No, sir; I am not aware of that.

Q. Well, did you take any steps—

The CHAIRMAN. Was there such a report as that?

Mr. KENNEDY. Yes, sir.

The CHAIRMAN. Who made it?

Answer. Well, it was made. I think it was made either by Mr. Edmunds for you, sir, or by you yourself, and there was an exhibit in small type attached to the report reiterating those charges; that I may say, now that General Adams is dead, nearly broke his heart. I was his personal counsel.

The CHAIRMAN. You mean the charges broke his heart, or the report?

Mr. KENNEDY. No, I mean the charges. The report did not say a thing against General Adams. There was nothing in the report that bore on General Adams at all, but the report was accompanied with an appendix in small type from some other previous report that reiterated those charges. That is all; Mr. Lines.

Mr. FOSTER. It is well enough to say that this book from which these documents have been read is a book entitled "Arguments before the House Committee on Foreign Affairs."

Mr. KENNEDY. Certainly. I read the title of the book to Mr. Lines.

Mr. FOSTER. It was not before the Senate.

The CHAIRMAN. I do not remember any report that I ever made or in my consideration of this question that General Adams's official conduct had any bearing or was commented upon or referred to in any way.

Mr. KENNEDY. No; I think there was nothing about General Adams in the report itself, but I do remember distinctly—and I will show it to you by and by, if you desire me—I do remember distinctly that in an appendix to the report these then disproved charges against General Adams touching his military history were reiterated.

The CHAIRMAN. Do you mean that the appendix of the report contained a copy of some previous report made in the House of Representatives?

Mr. KENNEDY. No, I do not think it was a report in the House of Representatives. But I do want to say that I never have believed and had no intention of suggesting here that you or any other Senator would knowingly print anything about General Adams or anybody else reflecting on his character without what would be considered satisfactory proof; and my only purpose was to get out of Mr. Lines whether he or his associates took any pains after these documents were filed with the House committee—I mean the official reports from the War Department and the Third Auditor's office and the certified copies of the courts-martial—whether Mr. Lines or any of his associates took any pains to redress the wrong that had been done to this man touching his military history, which, of course, every soldier regards as precious. That is all.

Mr. FOSTER. It is to be noted that in this investigation we have taken knowledge of the fact that General Adams is dead, and have not attempted to look into his record or history in any regard.

Mr. LINES. I should be very glad to make any offer of formal withdrawal of anything that I have said and am responsible for that turns out to have been incorrect.

Mr. KENNEDY. Well, every one of the charges against General Adams affecting his military history is printed in the document entitled "New Evidence offered by Mexico," and my purpose in asking those questions was to give you an opportunity to do what I felt sure you would do when your attention was drawn to the fact that official documents under the seals of the proper departments had been filed showing that these charges were mistaken. Now, I have just one more question to ask Mr. Lines, and it is this:

Q. Were you the author of the statement in Mexico's "New Evidence" that Elder had evidently found a market for his letters and that La Abra Company had swindled him, as it had its other witnesses, by not sending him to China?—A. I think I am responsible for that, Mr. Kennedy.

Q. Well, in this investigation, have you noticed that instead of the offer to go to China coming from La Abra Company, the first mention of the China business was in a letter from Elder to Bartholow?—A. The first mention of it that I have seen in this investigation is in one of those letters.

Q. Yes.—A. Perhaps it is not exactly fair to remind you that that one of Elder's letters to Bartholow, claimed to be in reply to a letter from Bartholow to Elder, which letter from Bartholow to Elder we have not had here. I would like to see it.

Q. It is true the record shows there is a previous letter from Bartholow to Elder, but the record shows that no mention was made of the offer to go to China until subsequently, and that that letter mentioned the matter to Bartholow, and asked Bartholow whether he would not like to take some shares in that China enterprise.—A. Bartholow said perhaps he would.

Q. Yes; that is all.

Mr. FOSTER. Mr. Chairman, I desire to file the certificate of the clerk of the city and county of New York which I read:

The clerk of the city and county of New York, in the State of New York, will please search in his office for all annual reports of the "La Abra Silver Mining Company" filed therein between the 20th day of January, 1868, and the 21st day of January, 1877, and certify the result in writing for

SULLIVAN & CROMWELL,
Atty's at Law, 3 Broad Street, New York City.

La Abra Silver Mining Company annual report filed Jan'y 21st, 1868, and annua report filed Jan'y 20, 1877.

Nothing else found for the period.

Feb'y 15th, 1889, 9 a. m.

[SEAL.]

EDWARD F. REILLY,
Clerk.

I desire now to present in evidence for record the letter of the Secretary of State in reply to the application made by the committee for the list of assignments made by La Abra Silver Mining Company and the list attached.

The CHAIRMAN. That can go in.

It is as follows:

DEPARTMENT OF STATE,
Washington, February 21, 1889.

SIR: In compliance with the request contained in your letter of the 11th instant, I have the honor to inclose herewith a list of assignments made by La Abra Silver Mining Company to various parties, as they appear on the files of this Department. I have the honor to be, sir, your obedient servant,

T. F. BAYARD.

Hon. JOHN T. MORGAN,
United States Senate.

List of assignments made by La Abra Silver Mining Company.

Conditional assignment by Alonzo W. Adams (dated Dec. 13, 1871) to Wedworth Wadsworth of $\frac{1}{3}$ of his interest (one-third) in this award to secure notes of \$2,000 and interest. Endorsed on this assignment is a transfer of interest by Wadsworth to Henry C. Hepburn. (Filed in Dept. January 25, 1879.)

NOTE.—This assignment has been satisfied so far as the Department is concerned.

Agreement between Sumner Stow Ely, A. W. Adams, and Geo. H. Williams (dated Oct. 9, 1879), whereby Mr. Williams is to receive \$16,000; \$3,326.50 out of 1st and 2d installments and balance pro rata out of subsequent installments. (Filed in Dept. Oct. 18, 1879.)

Assignment by La Abra Mining Co. (dated Feb'y 4, 1881) to Charles T. Parry and Joseph Hopkinson of \$4,400; \$1,257.20 to be paid out of third installment and \$314.28 out of each of ten succeeding installments commencing with the fifth. (Filed in Dept. Feb'y 5, 1881.)

Decree of supreme court of D. C. (dated Jan'y 21, 1881), that \$15,000 shall be paid out of 4th installment, as follows:

F. P. Stanton \$3,333.33; T. W. Bartley \$3,333.33; W. W. Boyce \$3,333.33; A. W. Adams \$5,000.00. (Filed in Dept. Jan'y 25, 1881.)

Assignment by La Abra Co. to Cyrus C. Camp (dated May 6, 1880) of \$10,000, to be taken in 11 payments of \$909.10 each. (Filed Sept. 14, 1880.)

Assignment by La Abra Co. to Shellabarger and Wilson (dated Feb'y 4, 1881) of \$5,266; \$2,633 to be paid out of the 5th installment and \$2,633 out of the 6th installment. (Filed Feb'y 8, 1881.)

Assignment by La Abra Co. to W. W. Boyce (dated Feb'y 5, 1881) of \$8,666, to be paid pro rata. (Filed Feb'y 8, 1881.)

Assignment by La Abra Co. to Thomas W. Bartley (dated Feb'y 5, 1881) of \$6,166.66, to be paid pro rata. (Filed Feb'y 8, 1881.)

Assignment by La Abra Co. to Frederick P. Stanton (dated Feb'y 5, 1881) of \$6,166.66, to be paid pro rata. (Filed Feb'y 8, 1881.)

Assignment by La Abra Co. to Thomas W. Bartley (dated Nov. 23, 1881) of \$2,500 out of the 5th installment and \$833.33 out of each of the succeeding eight installments. (Filed in Dept. Nov. 25, 1881.)

Assignment by La Abra Co. to Frederick P. Stanton, same as above to Bartley. (Filed Nov. 25, 1881.)

Assignment by La Abra Co. to George Ticknor Curtis of \$850; this assignment is conditional. (Filed June 30, 1884.)

Assignment by La Abra Co. to John H. Rice (dated Jan'y 10, 1883) of \$3,357.15, payable in sums of \$428.27 out of each installment, commencing with the 6th. (Filed Feby. 26, 1886.)

Assignment by La Abra Co. to George Tickner Curtis (dated May 29, 1885) of \$1,650, on same terms as previous assignment. (Filed April 29, 1886.)

Conditional assignment by A. W. Adams to Shellabarger & Wilson (dated May 12, 1884) of \$5,000, to be paid out of the 6th installment. (Filed Sept. 23, 1886.)

Assignment by La Abra Co. to Eugene Jones (dated June 29, 1880) of \$34,000, to be paid in eleven equal installments. Mr. Jones admits having received \$6,181.80 on this account. (Filed Mch. 28, 1887.)

Assignment by La Abra Co. to Shellabarger & Wilson (dated March 5, 1887) of \$3,333.34, to be paid out of 6th installment. (Filed April 1, 1887.)

Conditional assignment by Alonzo W. Adams to Crammond Kennedy (dated May 20, 1886) of \$2,500. (Filed April 2, 1887.)

NOTE.—Mr. Kennedy claims that the foregoing amount has been increased to \$5,000, but no agreement to that effect has been filed in the dept.

The committee adjourned until Monday, February 25, at 10 a. m.

SENATE OF THE UNITED STATES,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 25, 1889.

The committee met pursuant to adjournment.

Present: Senator Morgan (chairman), Hon. John W. Foster, and Robert B. Lines, counsel for the Government of Mexico; and Mr. Crammond Kennedy, of counsel for La Abra Silver Mining Company.

Mr. KENNEDY. Mr. Chairman, I have a note from Shellabarger & Wilson's office saying that Mr. Ely is in town and that Judge Wilson would like to examine him. Mr. Wilson is in court this morning, and I request that you will have the goodness to appoint to-morrow, or any other time, for the examination of Mr. Ely.

The CHAIRMAN. I can not do that, Mr. Kennedy. Mr. Ely has had all the opportunity that it is possible to give any person. He is summoned to-day for 10 o'clock, and I will not delay this investigation any longer. Is Weed here?

Mr. KENNEDY. No; I called at the Sergeant-at-Arms' office this morning to see the young man who has charge of the subpoenas, but he was not in.

The CHAIRMAN. I can not stop the business for that.

Mr. KENNEDY. Now, I have a formal motion to make that I want to go on the record. This motion, Mr. Chairman, if it please you, is to have a subpoena for Domingo Danglada [presenting telegram from him].

The CHAIRMAN. Mr. Foster, are you prepared to admit that that man would swear to what is contained in these telegrams, taking them in consecutive order, to explain the situation, as if he was here?

Mr. FOSTER. That is, he would confirm Sisson's testimony on that point?

The CHAIRMAN. No; that he would swear to just what is there, taking the telegrams just as they appear, the telegram inviting the answer and then the answer; that he would swear to the statements made therein.

Mr. FOSTER. Well, suppose we ask the chairman, if we should decline to admit that, would it involve a postponement of this investigation—the adjournment of this investigation?

The CHAIRMAN. It would involve, in my opinion, the order of a subpoena for that man to come here. I think it would. I shall insist that we shall make a report of progress in this case and take the advice of the general committee as to whether it is necessary to go any further or not; but as to the testimony of this particular witness, he has been located at last, although there is delay about it and all that; I think the other side has the right to the benefit of the statement that he may make, that Dahlgren was there and signed that paper after the deposition had been written up. You do not admit the fact; you admit he would swear to it if he were here?

Mr. KENNEDY. Of course; that is all your admission means.

Mr. LINES. My suggestion to General Foster is—of course this has taken us by surprise—that this matter be postponed until later in the day, when we can probably have Mr. Sisson's testimony in print.

The CHAIRMAN. I will not postpone it. I declined to postpone it on account of Mr. Ely. I must close this matter up, and have some time to devote to my own business.

Mr. FOSTER. May I ask, Mr. Kennedy, have you any witnesses to appear now?

Mr. KENNEDY. Yes; there is Mr. William S. Weed.

Mr. LINES. We shall have Sisson's testimony very soon, I think, in print.

The CHAIRMAN. Where is Mr. Weed?

Mr. KENNEDY. You remember we spoke about it on Saturday——

Mr. FOSTER. We will decide this question before you are ready to return.

The CHAIRMAN. I am ready now. If there is no witness now ready to be put on the stand I shall close this examination.

Mr. KENNEDY. There is one witness, and I am not sure whether you will allow me to put him on the stand.

The CHAIRMAN. Who is that?

Mr. KENNEDY. I shall be satisfied, Mr. Chairman, if you will allow me to put in an offer of proof by Representative Ketcham and G. H. Warner, of the Post-Office Department, to the good reputation of ex-consul Isaac Sisson for truth and veracity in the community where he lives.

Mr. FOSTER. Well, fix the location, the place.

Mr. KENNEDY. At Lithgow, in the town of Washington, Dutchess County, New York.

The CHAIRMAN. Now the offer made by Mr. Kennedy can go upon the record, but the committee do not consider that the case is in that situation where it is necessary or proper to bring in testimony to support the character of Mr. Sisson. It opens an inquiry that might produce a good deal of expense and delay, and it really is not made necessary by the fact that the Government of the United States requested Mr. Sisson's resignation as consul, and that he resigned.

Mr. KENNEDY. Well, have you any objection to saying what you said a moment ago, that that fact in no way impeaches in the judgment of the committee the reputation of Sisson for truth and veracity?

The CHAIRMAN. I will say, that it may go in the record, that it does not impeach, in the judgment of the committee, as legal evidence, the reputation of Sisson for truth and veracity. The committee, however, have a right to keep in mind Mr. Sisson's personal bearing upon this investigation and all other facts that produced legitimate impressions upon their minds.

Mr. FOSTER. Is there anything else, Mr. Kennedy?

Mr. KENNEDY. Yes, I have another offer of testimony that I want to make in a somewhat formal manner. I would like it to go on the record if the chairman has no objection.

The CHAIRMAN. Let me hear what it is first.

Mr. KENNEDY. It is affidavits in regard to the conduct of Alfred A. Green in his employment to obtain testimony for the Mexican Government.

The CHAIRMAN. The committee do not feel authorized under the orders of the Senate to admit *ex parte* affidavits in this investigation, objections having been made on both sides to any other than strictly legal testimony in this case.

Mr. KENNEDY. I want to ask the chairman if he will not give us a hearing for Mr. Ely at the same time that we have Weed here; whether he will fix an hour to-day?

The CHAIRMAN. I can not do it.

Mr. KENNEDY. For Ely's examination?

The CHAIRMAN. I can not do it. My time is due to my own constituency in some sense, and I have been spending days and days together

waiting upon counsel and the movements of Mr. Ely, and now that he is in Washington he deliberately keeps away from the committee.

Mr. KENNEDY. But I stated the reason.

The CHAIRMAN. Well, Mr. Ely's private business or Judge Wilson's private business can not either answer the demands of justice or the demands the public business makes upon this committee.

Mr. KENNEDY. Judge Wilson, I ought to say, anticipated that Weed's examination, and these motions, and the examination of the two witnesses to prove Sisson's good reputation, would take up all the time that you could spare to this case this forenoon, and he told me to ask you to appoint a day that would suit your convenience, and if a day other than to-day would not suit your convenience, then I was to ask you to appoint an hour to-day that would suit your convenience.

The CHAIRMAN. Well, there is no hour to-day or any other day that would suit my convenience, except the time assigned by this committee and which they pay no attention to.

Mr. FOSTER. If you are now prepared to adjourn?

The CHAIRMAN. I am.

Mr. FOSTER. Before you adjourn we will answer the opposition that we reluctantly, and in order to avoid any excuse for further delay in this investigation, will admit that Danglada, if present, would swear to this statement contained in the telegrams.

The CHAIRMAN. I will read it. Shellabarger & Wilson, counsel of La Abra Silver Mining Company, sent a dispatch addressed to Domingo Danglada, at Mazatlan, Mexico, dated February 21, 1889, at Washington, D. C., as follows:

Dahlgren swears he did not sign his deposition taken September, 1872, before Sisson, about La Abra claim, but signed a blank sheet of paper. Sisson swears that Dahlgren signed said deposition when fully written out, and that it was read to Dahlgren by Peña in your presence, and you tied it up. Which is the truth? Wire at our expense.

SHELLABARGER & WILSON.

Via Galveston, February 23, 1889, dated Mazatlan, 23.

SHELLEBARGER, R. J. WILSON, *Wash'n, D. C. :*

Sisson is correct. Dahlgren signed deposition when fully written out.

D. DANGLADA.

It is admitted by the counsel for Mexico that if D. Danglada were here he would swear that he received the telegram above copied and made the answer above copied and would swear that:

Sisson is correct. Dahlgren signed deposition when fully written out.

Is there any further testimony, gentlemen?

Mr. KENNEDY. Will you allow me to have it on record that at the request of Judge Wilson I offered to produce Mr. Ely here at any hour to-day or to-morrow that would suit your convenience?

The CHAIRMAN. Yes; with the statement that this committee met to-day after due notice at 10 o'clock for the purpose of hearing the witness. Mr. Ely is in town, has not appeared, and has sent no other excuse for his non-appearance than the fact that Mr. Wilson desired to examine him, Mr. Kennedy being present and considered by the committee quite competent to conduct this examination.

Mr. KENNEDY. Now, Mr. Chairman, what will you do about Mr. Weed? It certainly is not our fault that he is not here.

The CHAIRMAN. Well, it is not ours, or mine, rather. I have done all I could to get him here.

Mr. LINES. To that statement we perhaps might add that it is not our fault.

Mr. KENNEDY. I do not mean to intimate that it is anybody's fault.

The CHAIRMAN. This examination is now concluded so far as the subcommittee is concerned until further directed by the general committee. I will take this case before the general committee on Wednesday.

The committee adjourned.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D. C., February 27, 1889.

The committee met pursuant to call. Present, Senators Morgan (chairman), Dolph, and Brown; Hon. John W. Foster, and Mr. Robert B. Lines, counsel for the Government of Mexico, and Crammond Kennedy, esq., of counsel for La Abra Company.

TESTIMONY OF SUMNER STOW ELY.

SUMNER STOW ELY, sworn and examined.

By Mr. KENNEDY:

Q. Mr. Ely, state your full name, age, occupation, and residence.—A. Name, Sumner Stow Ely; age, nearly sixty-three; occupation, lawyer; residence, New York City.

Q. What connection, if any, have you had, and do you now have, with La Abra Silver Mining Company?—A. I am one of its officers and a trustee.

Q. What other relation have you held to the company?—A. I have been and am still its home attorney in New York—attorney and counsel.

Q. For how long?—A. Since the company was organized, in the year 1865.

Q. Will you state whether your attention was drawn to certain alleged letters of Charles H. Exall mentioned in the pamphlet by James E. Slaughter, and if so whether you did anything and what it was on account of that matter?—A. My attention was called to it by the petition itself. One of those was put into my hands here in Washington in April, 1878, I think, when I was here on affairs of the company, and some legislation was pending with regard to the award of the company against Mexico. That is the first my attention was ever called to those letters—the first knowledge I ever had of them. I had never heard of them; did not believe in their genuineness or their existence, and I went immediately over to New York for the purpose of ascertaining what I could about them, finding all the correspondence of the company, and to see Mr. Exall himself in regard to it. He was then living there at that time.

Q. Now proceed to state what was done by you and Mr. Exall in regard to those alleged letters of his.—A. I made all the search I could for the original correspondence of the company; not being able to find it, I then went to see Mr. Exall, and I first inquired of him whether he had any of the original letters or correspondence between him and the

company, to which he replied that he had none. I then told him of these.

Mr. FOSTER. You had better wait a moment.

The CHAIRMAN. Have you an objection?

Mr. FOSTER. We have to any statement made by Exall; anything that Exall did will be proper.

The WITNESS. I then told him of these letters.

The CHAIRMAN. Mr. Kennedy, do you wish to call out now the conversation between Exall and Ely?

Mr. KENNEDY. So far as it is connected with the affidavit that we desire to prove by this witness as having been made at the time by Exall, an examined copy of which Mr. Ely has in his possession.

The CHAIRMAN. Well, if the conversation relates to the affidavit or what is contained in the affidavit, had you not better bring the affidavit forward at once and let us see whether that is competent evidence.

By Mr. KENNEDY:

Q. As the result of this interview which you had with Mr. Exall in New York at that time was any sworn statement or affidavit made by Exall?—A. There was, yes. He prepared a statement. He made me an oral statement, and then I asked him to reduce it to writing to the end that it might be sworn to and to be used here in Washington if the occasion required it.

Q. Now please state whether he made such a statement and whether it was sworn to by him?—A. He did reduce it to writing and brought it to me and I went with him to the notary, Mr. McClelland, and he signed the affidavit, and swore to it before the notary and gave it to me.

Q. Now state what was done with that affidavit of Exall's?—A. I brought it with me here to Washington. I came back soon after and brought it with me. I first gave it to Governor Stanton, who was the counsel of the company on record here in Washington. It was not used here before the House and he subsequently gave it back to me, and in August, 1882, I handed it to Samuel Shellabarger, a lawyer of this city, who was then one of the counsel of this company, and with him I came to this committee-room, both coming into the ante-room, and he knocking at this door and it was opened, and he stepped in with the paper in his hand and almost immediately came out and said he had delivered it to Senator Pendleton, of the Foreign Relations Committee. That was on the 5th day of August, 1882.

Q. Will you state whether any search or inquiry has been made by you for that affidavit since that time; if so, what?—A. Last fall, in October, when this committee was in session, and I was here attending it, mention was made to me that the document would become necessary, and I was asked to look it up. I inquired of Mr. Babcock, the clerk here, if it was with him, and he said it was not; it would not be among his papers, but I must go to the file clerk or executive clerk for it. I went upstairs to a gentleman who was introduced to me as Mr. Morrow, the executive clerk, and described the paper that I wanted and asked him if it was in his office. He said it was not; it was no use for him to look among his files, it would not be among them any way. The place to go was to the file clerk. I then went to a gentleman who was introduced to me as Mr. Donaldson, the file clerk of the Senate, and I described the document I desired, and he took down so much of his files as he said it would be among, if it was with him at all, and went through them, I standing over him, by his request, and looking over the papers also. It was not among the papers that he examined, and he said it was not

with him. I also went to the State Department, as it was suggested that possibly it might have been returned with the treaty there, or got there somehow. I went to the State Department and inquired of the gentleman in the chief clerk's room, officiating as such—I suppose he was the chief clerk, a stranger to me—for the document there. He said that it was a paper that would not be returned there, and would be here with the files of the Senate.

Q. Now, will you state whether you ever made a copy of that affidavit, and carefully compared it with the original?—A. I did; yes, sir.

Q. Have you that copy with you now?—A. I have; yes, sir.

Q. Please produce it.—A. (Producing paper.) That is the copy.

The CHAIRMAN. What was the date of that paper there?

Mr. KENNEDY. It is the 23d day of April, 1878.

Now, Mr. Chairman, we offer this in evidence as an examined copy of an affidavit that has already been on the files of the Senate Committee on Foreign Relations and seems to have been irrecoverably lost.

The CHAIRMAN. What was the last date mentioned there, 1882, when he handed this in?

Mr. KENNEDY. August 5, 1882; he says it was Judge Shellabarger, as I understand him, who handed it in to Mr. Pendleton.

The CHAIRMAN. Mr. Kennedy, will you ask him this question now (handing it to him in writing)?

By Mr. KENNEDY:

Q. "What was pending before the Senate or the Committee on Foreign Relations on August 5, 1882, that caused you as counsel for La Abra Silver Mining Company to place the original affidavit of Exall on file with, or to hand it to, Mr. Pendleton, a member of that committee?"—A. As I understood, a treaty was pending, a proposed treaty, between the United States and Mexico, having for one of its objects to set aside this award and granting a new trial; I have no official information of that, but it was common understanding.

The CHAIRMAN. Now, General Foster, state the grounds of your objection to this testimony if you have any.

Mr. FOSTER. My objection is that it is a purely *ex parte* affidavit. The rule under which the committee have been acting has been to exclude all evidence of this character. The circumstances under which the affidavit itself is given shows that it is improper evidence aside from that rule—improper to be admitted as evidence at this time. This witness, as I learn from his memorial, saw the printed copy of letters in General Slaughter's pamphlet. He went to New York and told Exall something of the contents of them. He is the attorney and one of the interested parties in this award, an officer of the company. He makes this statement to Exall of the character of those letters, and Exall makes an affidavit without ever having seen the printed copies of the letters. Even if it were proper to admit that *ex parte* affidavit, it certainly is not proper to admit such a statement as is made under these circumstances.

The CHAIRMAN. What is your reply to that, Mr. Kennedy?

Mr. KENNEDY. I think, Mr. Chairman, that what Mr. Foster has said, so far as it is correct, might go to the value of the affidavit, but would be a matter of argument for the other side in showing that not much faith was to be given to the affidavit, but my friend omitted to state—perhaps he did not notice—that the witness has testified that before he said anything to Exall about the contents of those alleged letters in the Slaughter pamphlet he made diligent search among the

papers of the company for its correspondence; that is, the witness tried, before he disclosed the matter to Exall, to find the original and the best proof of this alleged correspondence.

Now, in regard to the other objection of Mr. Foster that the rule of the committee has been to exclude everything that was *ex parte*, I have to say that my understanding is different from that. I understand that the committee has included in the evidence taken by the subcommittee and to be presented to the full committee everything on this matter that was ever officially before Congress or any of its branches or the State Department, and I think that the record or what we use as the record is full of just such evidence. I recall now Mr. William R. Gorham's affidavit in regard to the alleged fact that Alfred A. Green, one of the witnesses for the company, never signed his deposition and never had it read to him, and then, among other matters, we have Mr. Dahlgren's letter that was not even sworn to. Of course that has been followed up and I suppose that would make a difference, but the Green and Gorham affidavits and statements have never been followed up, and yet they are in the record, that we suppose, under the rule of the committee, will be used in this examination.

Mr. FOSTER. It is perhaps unnecessary to say, Mr. Chairman, that when this question was discussed at your last meeting the scope and effect of the documentary matter that had been admitted was explained, but when an affidavit is sought to be brought into this committee or submitted as evidence it assumes altogether a different character.

Mr. KENNEDY. I think that my friend's objection would be good if Exall were living and we could possibly produce him, but within a few months of making this affidavit he died, and it seems from the statement of the witness that the witness lost no time in bringing this affidavit to the notice of the persons charged with this investigation.

Mr. FOSTER. We got no indulgence on account of the death of Granger.

The CHAIRMAN. Don't let us go over the whole field, gentlemen, on this. I am trying to get at the broad ground on which this is insisted upon as legal evidence and the ground upon which it is objected to. The committee have not admitted any affidavit or letter to go into this record that has not been proven before them in some legal form, so far as I have any recollection, at all. Certain letters and affidavits were referred to in what was called the Mexican case as submitted to the State Department in the diplomatic correspondence between the two Governments, in which was set forth in the way that Mexico chose to set it forth the reason why that Government insisted that there should be a rehearing of the case. That paper filed in the State Department is not evidence of anything except merely as the insistence of Mexico and her activity in trying to get rid of this award. It came in in the form of a pleading and assertion on the part of Mexico, and not in the form of evidence. The committee have not in the slightest degree given any weight to the statements that are contained therein except only so far as they have been substantiated by proof of a legal character submitted on this present hearing. So that the precedent to which Mr. Kennedy refers does not hold so far as the action of this committee is concerned. The question remains simply this: Is an affidavit made by Mr. Exall in April, 1878, to which he swore before a magistrate or notary public, competent evidence in this case because Exall is dead and can not be produced, or because Mr. Ely has been unable, as he asserts, to find the original correspondence between the company and Exall? That is what I understand to be his statement. Having now taken this down the

examination of Mr. Ely will proceed, subject to the motion to exclude the alleged copy of the affidavit, which will be ruled upon by the subcommittee when we get together to pass upon the question. Now, Mr. Kennedy, on that hypothesis you can proceed.

Mr. KENNEDY. To a different branch?

The CHAIRMAN. No, sir; you can proceed to examine Mr. Ely upon this affidavit as if it was in evidence, but the committee will reserve the right of course to exclude it.

Mr. KENNEDY. I was going to read it.

Mr. FOSTER. We object if it is going on the record in any shape.

The CHAIRMAN. The final ruling of this committee will depend upon whether it is competent evidence. If it is competent it will go in; if it is not competent it will go out.

Mr. KENNEDY. Will you let me add, Mr. Chairman, that the affidavit of Mr. Sundell is also in the printed record on behalf of the Mexican Government, although it has never been followed up by the examination of that witness.

The CHAIRMAN. Well, the committee attach no importance to Mr. Sundell's affidavit. It was merely a paper that was obliged to go in here because it completed the record that was filed in the State Department. There were a number of papers that were not proved at all and have not the slightest weight as evidence, merely because they have not been proved before the committee.

(Mr. Kennedy read the following paper:)

TO LA ABRA SILVER MINING COMPANY:

My attention has been called by the attorney of your company to a statement that it is claimed by an agent of Mexico that certain letters written by and to me have been obtained by him which contain statements at variance with the depositions made by me in the matter of the claim of your company against Mexico, on which an award was made in your favor by Sir Edward Thornton, the umpire. I have not assented to the appropriation of my letters by any one, and if any of them are in the possession of such agent they have been improperly obtained. I have not seen those alleged letters, and can not say whether they are genuine, garbled, or wholly manufactured for some purpose.

There were a number of letters written by me while in your employment and subsequently which, without explanation, may in part be considered as differing from my testimony. They were written between the early part of my administration of the affairs of your company in Mexico and a time some months after I ceased to be in your employ. The explanation of such parts of these letters as on their face seem to be inconsistent with my depositions will be found in the following facts:

I was sent from New York by the La Abra Silver Mining Company to Mexico to assist Col. J. A. De Lagnel, who was then superintendent of the works of the company in Tayoltita. When I reached Tayoltita, I was accompanied by James Granger, an English subject; he was a fellow passenger on the steamers from New York to San Francisco; a few days after leaving the port of New York we became acquainted, and finally quite friendly and intimate, so much so that although his destination was California, much to my surprise when we arrived at San Francisco, he concluded to go down to Mexico with me, and did go with me to Tayoltita and remained at the company's hacienda as my guest until I (when I subsequently took charge of affairs and having found out that he was an expert man with books) gave him employment.

We had not been there many weeks before we concluded (for we frequently talked with each other on the subject) that the company, as a company, would not be tolerated long in Mexico; that it was a mere matter of time when they would be driven out and compelled to abandon and lose all their interests there (as other American enterprises there had been) and which would thus fall into the hand of some one who would get the benefit of all their works and of a large amount of valuable ores, which had cost the company large sums of money and much labor, and we conceived the idea of reaping the benefit ourselves.

We saw that if the company was actually expelled, as we were certain it ultimately would be, we might not, and most probably would not, be able to secure the property, as it would probably fall into other hands; but if the company could be induced voluntarily to abandon the property before matters culminated in an expulsion, or to

part with it for a small consideration, we could probably retain the possession and secure the property to ourselves and due protection (Mr. Granger being an English subject).

The company was already somewhat disappointed because more rapid progress had not been made at the works and in reaching money results, and somewhat dissatisfied with being drawn on by the superintendent for more money. We thought that the state of affairs at the works could, from time to time, be so presented to the company as to induce the feeling we desired, and concluded to act accordingly. There was no purpose to wrong the company in any way; all we sought was to be enabled ourselves to get possession of the property and at the shortest possible time before the company would be driven out, which we believed was certain to be done, instead of permitting some one else, in that event, to obtain it.

Colonel De Lagnel, the superintendent, was sick, and had become thoroughly disgusted with life at the mines; and the annoyance and obstructions to which he was subjected in Mexico worried him to such an extent that he felt, as he said, unfitted to properly attend to the business to be done, and he frequently asked me, during his administration, to take charge of affairs, which I did. And thus I indirectly had charge of the business of the company for some time before his departure, and I purposely made such reports to him as to the quantity and quality of the ores as would tend to give the color and tone to his letters written during the latter part of his administration to D. J. Garth, the treasurer of the company in New York.

When he left I became acting superintendent, and I retained Granger to assist me, as already stated. I conducted the business of the company the same as if I might be mistaken in my opinion that it would ultimately be driven out of Mexico, and did my utmost to improve and perfect its works, to get out ores, and make its mines valuable. I obeyed the instructions of the company to my predecessor and myself and cut down all expenses, and to do so cut down the working force; but I endeavored to keep up production and the working of the mines by employing men to work by the carga. I expended every dollar of the company's money in its business, and notwithstanding its dissatisfaction at some drafts of my predecessor, I drew on the company for money for its business. Much of the bullion extracted by me was not minted, but was sent by me without the knowledge of any one at the hacienda but myself, some of it to New York, and some of it to San Francisco. This secrecy was necessary, because if it was known it would have been liable to seizure as contraband, and to avoid a possibility of a discovery of the facts, no entry of it was ever made in the company's books, but the proceeds were put into the company's business as stated in my deposition.

In my letters to Mr. Garth, treasurer of the company, written from time to time, I purposely dwelt upon the exaggerated necessities and the exigencies of the situation and belittled the value of the mines and ores and gave to the letters a discouraging aspect. I also wrote to him about my arrest and the threats made to me, and the difficulties and obstructions generally which I met with from the Mexican authorities and people.

Mr. Garth wrote such answers to my letters as I assumed they would call forth, and from the answers it seemed evident that the company would not be unwilling to enter into some arrangement to part with their property; and in the latter part of February, 1868, I concluded to go on to New York and see what could be done to that end.

Preparatory to so going I drew a paper addressed to James Granger, which purported to invest him with my authority and to give him power to act for the company. I had no power to confer, being only an acting superintendent, nor authority to confer such power if I had any; but it was necessary for the purposes we had in view that he be in possession, and that he should seem to Mexicans to have the proper authority. Had I gone then, I intended to return. But I reconsidered my decision to go at that time, and concluded I ought to remain longer before going, and await still more alarming indications from the people and authorities, and the paper I have referred to was never delivered to Granger. Whether I destroyed it or left it among the loose and discarded papers at the hacienda of the company I do not remember. I remained there some time afterward, but I waited too long, and the explosion which I believed to be several months distant came unexpectedly, and the expulsion of the company, and my abrupt departure to save myself from personal harm, and the complete abandonment of everything belonging to the company took place as I have stated in my deposition.

This expulsion satisfied me that the animosity of the authorities and people was not only against the company as an American company, but also against me as the representative of an American company, and individually, and that even if I had got, or could get possession of the property, I would not have been permitted to remain in the employment of it long, and I gave up all idea of returning for that purpose; but I hoped that Granger, instead of some Mexican, would get the possession of the property, and which I thought through his late affiliation with a Mexican family

he might be enabled to do, and which he did as I learned, except that, as I am informed, Judge Soto, the father of his wife or mistress, took possession of and occupied the company's hacienda.

I returned to New York and informed the company of its expulsion, and of my forced abandonment of all its property and gave them a full history of the state of their affairs, and of the feeling in Mexico against them. The company seemed to think the case was hopeless.

A party who had heard of the company's mines proposed to get up a new company and buy out the La Abra Company; and believing that something might be saved to the company and made for myself, I exerted myself to bring it about, and even offered to accompany the party to Mexico to aid in completing the transaction, and I wrote several letters to Granger partly upon that subject, suggesting what course he should pursue, and endeavoring to prevent his throwing any obstacles in the way; but the party subsequently learned, through some channels, of the hostility of Mexicans to American companies, and of the actual expulsion from the country of La Abra Company, and he dropped all negotiations on the subject, and nothing ever after came of it.

I speak of my letters from general recollection of them only, but the foregoing is a correct history of the origin and purpose of all letters I have ever written which contain anything inconsistent with my depositions—they were written for the express purpose of enabling Granger and myself to obtain the possession of the company's works and mines in the contingency which I have mentioned, and were known to and largely prompted by Granger, and in fact partly draughted by him, and in so far as they conflict with my depositions, the letters are untrue, and every material statement in my depositions is true.

NEW YORK, April 23, 1878.

CHARLES H. EXALL.

STATE OF NEW YORK,

City and County of New York, ss:

Charles H. Exall being duly sworn says that all and singular the matters stated and contained in the foregoing letter or statement by him subscribed are true.

CHARLES H. EXALL.

Sworn to before me May 1, 1878.

JAMES D. McCLELLAND,
Notary Public, New York County.

After the hearing of Mr. Ely the subcommittee met, and after consultation decided:

MR. DOLPH. The full subcommittee, having considered the offer of the attorneys for La Abra Company to put in evidence the sworn copy of the affidavit of Charles H. Exall, hold that said affidavit being an *ex parte* one, not taken in any legal proceeding and being offered by the attorneys for the company, is not competent evidence; but in the opinion of the committee it would have been competent if offered by the counsel for Mexico or on the part of the committee for the purpose of impeaching the witness Exall concerning his testimony taken before the Commission. It is ordered that it be printed for that purpose.

THE CHAIRMAN. I concur in the opinion of Senator Dolph as to the purposes for which this affidavit may be considered as evidence. Therefore the committee, on their own motion, direct that this be printed in the record.

MR. BROWN. I dissent from the ruling of the majority of the committee, on the ground that the counsel for Mexico tender the affidavit in evidence to impeach the deposition of Exall.

THE CHAIRMAN. Have you any questions to ask him about that paper, Mr. Kennedy.

By Mr. KENNEDY:

Q. Please state who it was that drew the statement which has just been read to the committee; the one sworn to by Exall?—A. Mr. Exall himself. It was in his handwriting.

Q. If you had any part in the preparation of the statement will you please state fully to the committee just what that part was?—A. I

drew the affidavit at the foot of it, and when he brought me the statement it was addressed to me as the attorney of the company. I suggested that he should address it to La Abra Company itself, which necessitated a change in some part of the phraseology of the first two or three lines, which he made, and also I suggested the transposition of some paragraphs. The order—it struck me as I read it—it struck me it would be more consecutive if he would change the location of some paragraphs, and I suggested that. That is the only part or lot I had with it.

Q. Please state in whose handwriting the original affidavit—the statement which you have described was written.—A. The statement signed by him was in his handwriting. The affidavit at the end was in mine.

Q. Well, I speak of the affidavit. I mean the statement that was sworn to, and my question is in whose handwriting the sworn statement was?—A. Mr. Exall's.

Q. How long was it after that that Exall died?—A. I do not know the exact date of his death, but I think it was in the fall or winter of the same year.

Mr. KENNEDY. If you have no questions to ask the witness, Mr. Chairman, I will pass to another point.

The CHAIRMAN. No; conclude the examination about this. Put it together so that if it goes out on the record it must go out bodily, and if it goes in it can go in bodily. General Foster have you any questions to put about this matter?

Mr. FOSTER. None.

By the CHAIRMAN:

I wish to ask him a question or two now. How long after Exall's return to New York was it that this affidavit was written?—A. Well, sir, I should think it was ten years.

Q. Ten years after his return from Mexico?—A. I think he returned from Mexico in about 1868, and this was in 1878, which would be ten years.

Q. What had he been engaged in during that period of ten years?—A. I could not answer as to that what he did quite a number of the years after he came back; I don't know. The latter part of the time he was clerk or cashier in one or more of the bankers and brokers' houses there in the city.

Q. Was he during any part of that time conducting business on his own account?—A. Not that I am aware of. I never knew of it.

Q. Did you see him frequently during that interval of ten years?—A. No, sir; not the first part of it, and I doubt very much whether he was in the city of New York. The latter part of it I saw him occasionally; happened to run across him.

Q. Were you the agent and attorney of the company at the time he returned from Mexico?—A. I was the attorney of the company.

Q. Did you have any other official connection with it?—A. None whatever.

Q. Who was the secretary and treasurer of the company at the time of his return?—A. Well, I think Mr. Worthington was the secretary and Mr. D. J. Garth was the treasurer; that is my recollection about it. I have no official information about it.

Q. At what time was the business of the company passed into your hands as trustee?—A. It never passed into my hands except as only one of the trustees.

Q. Were you ever the treasurer and secretary?—A. Yes.

Q. When did that occur?—A. In 1876 I became secretary and then treasurer; not, however, at the same time. I became treasurer in 1877 or 1878.

Q. When did you receive the first installment of money on the award for this company?—A. I think it was in the fall of 1879.

Q. After Exall's return from Mexico did he have any dispute or controversy with the company about his salary out there?—A. Well, I have an impression that he and Mr. Garth had some disagreement about it.

Q. Do you know whether it was paid?—A. No, I do not; but I knew, in a general way, that they had arranged their disagreement.

Q. How much did he receive?—A. I do not know, sir; know nothing about it; had nothing to do with the adjustment of it.

Q. Have you never seen any record or paper of the company that showed the settlement with Exall?—A. No, sir; I have no recollection of any.

Q. Have you any papers of this company now in your possession?—A. I have some that came into my possession since I became secretary and treasurer myself, in the year 1876.

Q. What is the character of these papers?—A. Well, the records which I have kept, and the books which I have made.

Q. Do those records contain any evidence of a settlement with Exall?—A. No, sir; I am sure they do not.

Q. Did Exall sue the company for his salary?—A. I don't think he did, but I would not be positive about that. It is barely possible he might have caused a summons to be served on them, or something of that kind; but if there had been a litigated suit it would have fallen into my hands, and there was nothing of that kind.

Q. How much stock have you got in this company?—A. I have one share transferred to me nominally to qualify me to act.

Q. How much of the proceeds of this award has been assigned or transferred to you?—A. Not a dollar.

Q. How much has been agreed to be assigned or transferred to you?—A. Not a dollar.

Q. Have you no contingent or conditional interest in the recovery of this award?—A. I have what I think you might call contingent interest in the affairs of the company, not directly contingent by virtue of any arrangement, but contingent by force of the situation.

Q. Your agreement with the company is not a conditional or contingent employment?—A. No, sir.

Q. For a sum certain?—A. No, sir; it is not for any sum certain. I have no agreement with the company, but any services I can render do not give me any interest in the award—are not dependent upon that at all. What my services in the affair are worth I expect they will pay.

Q. Mr. Baldwin has testified to some money having been paid you out of this award.—A. Yes.

Q. How much was that?—A. Paid to me out of this award? I think \$10,000.

Q. When was that paid?—A. That was paid to me in 1879, I think.

Q. Did you have a conference with Mr. Exall before he wrote this affidavit that you say was in his handwriting originally?—A. Yes, sir.

Q. Was it an extended conference?—A. I went to his house in the evening. It lasted an hour or so.

Q. Did you have then any copies of the letters that he was said to

have written to the company from Mexico?—A. I had made memoranda from the little pamphlet that I had put in my hands here, but which I left behind me here. I had jotted down the dates of some of the letters, and to and from whom, and some expressions in them. I told him the contents of those letters, as well as I could, and gave him the data I had.

Q. And it was upon your statement to him that he predicated this affidavit in explanation of these letters?—A. Yes, sir; my statement of the appearance of these letters here and what they contained, as nearly as I could state to him, and the memoranda I had made of the letters predicated that.

Q. At what place was this affidavit prepared?—A. I can not tell at what place he drew it. He may have drawn it at his place of business. My conference with him was at his room in East Twelfth street.

Q. How long was it after this that he appeared with this letter that he swears to?—A. This statement?

Q. Yes.—A. Well, I should think three or four days. It was not the next day, I know. A few days elapsed.

Q. Was anything pending before the Senate or House of Representatives at that time relating to this award?—A. Yes.

Q. What was it?—A. It was the bill which subsequently became the law of June 10, 1878, for the distribution of the moneys from this award.

Q. Now, was any committee of Congress in charge of that measure at that time?—A. I think it had been before the Committee on Foreign Affairs in the House.

Q. Who was then chairman of that committee?—A. I think it was a member from Maryland; I think Mr. Swann, I think, was chairman of the committee.

Q. Was any investigation being conducted by that committee in respect of this claim?—A. I think a subcommittee of that committee; yes, sir.

Q. Were they examining witnesses?—A. No; I don't think they took any examination of witnesses, but it was mainly arguments of counsel.

Q. Did you take this affidavit of Exall's before that committee?—A. No, sir.

Q. Why not?—A. Because it was drawn with a view to meeting Slaughter's petition, and that petition was never presented, and I think that the subcommittee had made its report; reported the bill and finished its business; reported it to the House.

Q. Is that petition anywhere in this record?—A. Of Slaughter's, no, sir; I think not.

Q. Are you certain that the petition never went before the committee or subcommittee of the House of Representatives?—A. I have never seen that it did; never saw any record that it did, and understood at the time from people who were conversant with the mode of proceeding that it never was presented. It was circulated rather privately among the members, and one of them fell into the hands of Mr. Bartholow, who showed it to me.

Q. At the time you had this consultation, or conference, with Exall about the letters that he had written from Tayoltita, was this double-column statement of the Mexican case in existence?—A. Not to my knowledge.

Q. You don't know whether it had then been presented to the State Department?—A. I don't know anything about that. It was not then known to me.

Q. Was the pamphlet of Slaughter the only allusion that you knew

of to letters that purported to come from Exall?—A. The first and only one.

Q. Why did you make a copy of this affidavit?—A. This here?

Q. Yes.—A. Because I desired to keep a copy of it.

Q. When did you make it?—A. One or two days before it was filed here.

Q. In 1882?—A. In 1882.

Q. You stated, if I understood you, that you presented that affidavit at that time because you understood that a treaty with Mexico was then pending before the Senate Committee on Foreign Relations?—A. I understood so.

Q. And you handed it to Mr. Pendleton; Mr. Shellabarger handed it to Mr. Pendleton in your presence?—A. He went inside. I did not see to whom he handed it. I staid outside the door, and Mr. Shellabarger just stepped in. Mr. Shellabarger can speak on that point.

Q. Was Exall living at that time?—A. No, sir. He died, I think, in the latter part of 1878.

Q. But he was living at the time that this first investigation was going on in the House of Representatives?—A. He was living at that time; yes, sir. Before that committee reported the bill, and at the time that the committee reported the bill, he was living.

Q. Well, was there any reason why you did not present Mr. Exall to that committee, and have him examined?—A. We did not know anything about those letters until after that committee made its report and this bill was in the House of Representatives.

Q. That bill then came over to the Senate, did it not?—A. I think it originated in the House.

Q. And then came to the Senate?—A. I think that one was introduced in the Senate, too, at the same time.

Q. Was there any investigation in the Senate of the facts and circumstances?—A. Not that I ever knew.

Q. Well, did these letters of Exall, in printed form or in any form, come before the committee of either house prior to the passage of the act of Congress to which you refer, distributing this award?—A. Not to my knowledge. I should feel quite confident in saying they had not, but I have no knowledge of it, however.

Q. Now, I will get you to state your best recollection of what it was you told Mr. Exall those letters contained.—A. At the time when he made the statement? Well, sir, I can not give you the dates of the letters, but I told him in a general way that those letters contained statements that the ores were not valuable.

Q. Let me ask you, did you only make a statement to him in a general way or did you make specific statements?—A. No; I did not pretend to make specific statements.

Q. Well, awhile ago you said you copied out parts of the letters?—A. I copied out some expressions.

Q. Well, what I wish is a statement of your best recollection of all you said to Exall in respect to those letters—the whole of it. Just go right through now and state it in your own way.—A. I stated to him that there appeared to be certain letters from him written to Mr. Garth as treasurer of the company, and that those letters contained statements in them that the ores at the mines in Mexico were of little value; that there had been no trouble down there with the authorities; that he had been embarrassed for want of funds—well, I can not give you it in much more specific form than that. The general upshot of it was that the

company was without valuable property down there, and that his letters tended to show it; and that they were without means down there, and that his letters tended to show that; and that there was no difficulty with the people about titles or anything else of that kind, or any abandonment; that he had written to Mr. Garth that if he did not intend to let the property go to the dogs down there he must send some money. I can not remember all I said, nor give you now anything nearer to it than that; that I certainly said to him the statements in those letters, if those letters were written by him and the statements were true, conflicted with the statements that he made in his depositions for the company, and that if those were his letters, and the statements were true, I wanted to know it; and that if they were not true I wanted him to tell me what his explanation of them was, if they were his letters. That is as near as I can now tell you, Mr. Senator, about this. I have no doubt that I gave him something more, particularly of the expressions in the letters, but I conveyed to him the impression as strongly as I could that those letters, in my opinion, went counter to his affidavits, and I wanted to know what the truth was about them.

Q. I suppose that, as a lawyer, you selected out the points that you thought were the most essential for him to reply to?—A. Well, it showed most conclusively that his depositions would not be true if the letters were true.

Q. And you stated to him what these points were, in the language of the letters, as you saw them in Slaughter's petition?—A. No, I did not use the language of the letters, except that I jotted down a few expressions that struck me as peculiar.

Q. Well, can you recall any of those expressions?—A. One was about its "going to the dogs;" did not want the property to "go to the dogs" struck me as a peculiar expression and made an impression upon my mind; and send him some money; wanted to know the intentions of the company in regard to it, and another thing is there is no difficulty about titles or anything else; it was only money.

Q. Did you inform Exall that his letters, if genuine, contradicted his deposition given before the Commission?—A. I suppose I did that, yes; in this way: I told him if these letters were genuine, or if the statements in them were true, that then they conflicted with his depositions.

Q. Did you say anything to him about a threat that Slaughter had made that he intended to prosecute him for perjury?—A. I had not heard anything about that; I never said anything to him about it.

Q. You had not heard of that?—A. No, sir.

Q. Well, you knew that Exall was amenable for perjury if his letters were true?—A. Well, if his letters were true I should say his depositions were not true.

Q. Could not be?—A. It did not seem so to me. That is what I wanted to know. One or the other did not seem to me could stand, and I wanted to know what the fact was.

Q. And you thought that the subsequent affidavit of Exall would annul the effect of the letters and would explain his depositions?—A. Yes, sir; I thought it would. I thought that if the facts were as stated in this last deposition, you mean?

Q. Yes.—A. That if the facts were as stated, it would explain his letters. Of course, it left him in rather an unpleasant position himself as to his acts down there, but if the facts were as explained in that affidavit, I thought that explained his letters.

Q. Now he seems to have spread his answer out in this statement very much broader than any statement you have any recollection of

having made to him?—A. Well, I can not say as to that. I have stated as near as I can remember.

Q. Did you and Exall have any consultation about what was the general scope of the statement he should make?—A. No, sir; simply he made a verbal statement; that is, a disjointed statement.

Q. Was Exall a lawyer?—A. No, sir; but a man of considerable literary attainments.

Q. Then after you had seen this paper prepared, or he brought it to you prepared, you re-arranged certain paragraphs or sentences in it?—A. I suggested to him that he transpose certain of the paragraphs.

Q. Did he do so?—A. He did.

Q. Now, which paragraphs did he transpose?—A. I can not tell you, sir.

Q. But, looking over this affidavit now, which you have carefully copied out and studied of course, can you state to this committee what paragraphs of that paper were transposed under your advice?—A. No, sir; I could not. It would not be possible for me to do it.

Q. So that you do not know that this affidavit expresses exactly the train of thought that passed through Exall's mind at the time he originally prepared it?—A. I suppose it did. I know nothing to the contrary of that.

Q. Do you undertake to say that, in the transposition of those paragraphs or sentences that there was no change in the drift or meaning of the entire paper?—A. Not that I am aware of. No, sir.

Q. It was a mere question of style, then, was it?—A. It was a mere question of arrangement.

Q. Arrangement?—A. Yes. My recollection is that I thought the narrative would be more consecutive if he would transpose some paragraphs.

Q. Now, if he had all the same facts of the narrative, as transposed, that were in it as it was before, what was the necessity of making any transposition at all?—A. No occasion for it except—

Q. It was mere harmony of expression you were consulting at that time?—A. That is all. I thought it would make a more consecutive paper.

Q. Did he take that paper and write it over, or transpose the words by interlineation?—A. No, sir; transposed there, and rewrote the paper.

Q. Afterwards?—A. Yes.

Q. Did you compare the transposed paper with his original statement made to you?—A. No, sir.

Q. How long after the original draft was prepared was it before the transposition was completed?—A. It might be three or four days.

Q. Did you have any conference with Exall in that interval?—A. No, sir.

Q. Not at all?—A. No, sir.

Q. He brought it back to you in the shape it is now?—A. Yes, sir.

Q. And you are prepared to state, I suppose, that no new facts went into it?—A. Not to my knowledge; no, sir.

Q. Well, but you saw both papers, and you suggested the rearrangement. Now, are you prepared to say that no new fact went into it?—A. Not to my knowledge or belief.

Q. It was literally in the same words it was originally drawn in?—

A. Yes, sir; I so supposed—

Q. Except the allocation of the sentences?—A. Yes, sir; and except that I suggested that he address it to the company instead of addressing it to me.

Q. Then you made no use of that paper before the passage of the act of Congress requiring the distribution of these awards?—A. None whatever.

Q. Did you then expect you would ever have a use for it?—A. I did not know I would ever have any use for it; no, sir. I had no expectations about it one way or the other.

Q. Well, why did you regard it as being so valuable a paper as that you should make an exact copy of it before you would venture on bringing it here and put it into the hands of the Foreign Relations Committee of the Senate?—A. Well, sir, I think the fact that it got lost is almost an answer to that.

Q. Well, that was a subsequent fact. I wish to know the facts that were operating in your mind at the time you made a copy?—A. I wished to keep a copy, thought it might sometime become important, and I wanted a copy when it was filed here. I did not know anything about your mode of filing or preserving papers.

Q. You did not know that any treaty was pending to which that was applicable?—A. I have always understood that a treaty was pending.

Q. But you did not know that the paper would be of any value to the committee?—A. I supposed it would be of value to them, or else Mr. Shellabarger would not have advised me to file it. It was upon his suggestion that it was filed.

Q. Was anything said to Mr. EXALL in all of these interviews with you, in respect of any possible danger that he might have encountered by his giving a deposition that needed to be supported by additional statements?—A. No, sir; nothing of the kind.

The CHAIRMAN. Do you wish to ask the witness anything, Mr. Foster?

Mr. FOSTER. No, sir.

The CHAIRMAN. Mr. Kennedy, is there anything further?

Mr. KENNEDY. Just one question if you will kindly put it; that is, what is the habit of Mr. Ely in regard to copying documents that he has had to do with as an attorney, or in any official capacity?

By the CHAIRMAN:

Q. Mr. Kennedy asks me to inquire what is your habit in regard to your making copies of papers that you think may subsequently become valuable?—A. That is a habit almost any lawyer has. I have that habit.

Q. Well, was this a matter of habit on your part that you copied Exall's deposition?—A. No, sir; I should not say it was; that I might have another copy of it, but the habit may have operated to some extent.

By Mr. KENNEDY:

Q. Do you know George W. Kittelle?—A. I do; yes, sir.

Q. When did you become acquainted with him?—A. About the year 1850, I should say.

Q. Do you know William S. Weed?—A. No, sir; never saw him.

Q. What part, if any, did you take in bringing Kittelle and Exall and Weed together?—A. Do you refer to any particular time?

Q. In January or February, 1878.—A. I called upon Mr. Kittelle, after having had an interview with Mr. Exall, and requested Mr. Kittelle to act as his friend in a negotiation which had been opened by Mr. Weed with Mr. Exall.

Q. What was the purpose of the negotiation?—A. The purpose was to procure—

Mr. LINES. I want to enter an objection to this.

The CHAIRMAN. What was the question? I did not hear it.

Mr. KENNEDY. The question was what was the purpose of the witness in introducing Mr. Kittelle into the negotiation between Exall and Weed.

Mr. LINES. That I do not object to, Mr. Kennedy.

Mr. KENNEDY. I think you are right, Mr. Lines.

Q. What was your purpose in introducing Mr. Kittelle into the negotiation between Exall and Weed?—A. It was to see how far Weed would go in his attempt to procure Mr. Exall's evidence against the award and to ascertain who he represented, by whose authority he was acting.

Q. Did you make any affidavit of the part that you took in that alleged negotiation between Exall and Kittelle on the one hand and the other parties?—A. I did; yes, sir. Not very long afterwards.

Q. How long afterwards?—A. Well, it was perhaps a month or so afterwards.

Q. Have you that affidavit or a copy of it with you?—A. I have the original down at my room. I have a copy of it here; a written copy made yesterday.

Mr. KENNEDY. We would like to offer that affidavit in evidence or examine the witness in regard to the substance of the affidavit.

The CHAIRMAN. Well, certainly an affidavit of a witness who is living and on the stand *ex parte* can not be made evidence in this case. Now you can proceed to examine him in your own way. If he wants to refer to that or any other paper to refresh his memory it is all right.

By Mr. KENNEDY:

Q. Will you state in your own way just what you did in that negotiation and what was your purpose in doing what you did?—A. I called on Mr. Baldwin, 96 Front street—called to see him rather on some private business, no business relating to this affair of this company—and he was absent; and as I was coming out of his store Mr. Exall came in and inquired if Mr. Baldwin was in, and I said "No; I have learned he was out of the city;" and then he said he wished to see me. We stepped up into the main office and he then stated to me—

The CHAIRMAN. You do not think Exall's declarations are competent. It was not in the presence of any person even pretending to represent the Mexican Government.

Mr. FOSTER. We object to that. Mr. Kennedy had better instruct the witness not to violate that rule. We can not interrupt him in his deaf condition.

Mr. KENNEDY. I think, Mr. Chairman, if anything was afterwards repeated to Fisher or Weed, that that would be sufficient connection in a negotiation of this sort to make this statement admissible.

The CHAIRMAN. Well, you can proceed with what was said between Weed and Fisher and this witness or Exall in his presence.

By Mr. KENNEDY:

Q. The chairman rules that you can not tell what passed between you and Exall when neither Fisher nor Weed was present.—A. Then I have nothing to say about them. I never saw either of those parties; never saw Fisher or Weed. I have nothing to say about that.

Q. But I suppose you can tell what you requested Mr. Kittelle to do in this matter?—A. I requested him to be introduced by me to Mr. Exall and to act as his friend in a negotiation which had been begun with Exall by a detective named Weed, and can I state what was said to me about the situation of the matter?

The CHAIRMAN. No. Nobody was present representing the Mexican Government. Of course that is not competent.

The WITNESS. I will go on and state what I requested him to do. I instructed Mr. Kittelle to make no proposition to him of any kind, nor to solicit interviews, but to get at the fact, as well as he could, who the detective represented, and who was to be responsible for the large sum of money which was to be paid to Exall in case he gave his evidence, and that if he could not—in the ordinary course of any conversation that there was between them—could not get it otherwise, then to ask that question straight and direct; that that was the point I wanted to get at in the main.

Mr. KENNEDY. I would like to ask him—just to bring out the fact, but not what was said in the reports—whether Kittelle did make reports to him of the various interviews.

The CHAIRMAN. You do not wish to bring out what was said at those interviews?

Mr. KENNEDY. No, sir; just the fact of the reports.

The CHAIRMAN. Yes.

By Mr. KENNEDY:

Q. Will you state whether Kittelle did or did not make reports to you in regard to the interviews that he had with Exall when the detectives or either of them were present?—A. Allow me to say first that I did take Mr. Kittelle there to introduce him to Mr. Exall. Then I will go on and answer your question. That is what you want to know, I suppose, anyhow.

Q. You will not be allowed to state what the reports were. My question is to draw out the fact that there were reports.—A. Yes, I understand that. Mr. Kittelle did on several occasions make reports to me of what he said had transpired between him and Weed and between him and Fisher—a man by the name of Thomas Fisher, another detective.

Q. How long did this negotiation continue?—A. I only know by the reports which Mr. Kittelle made to me, and they run along—well, I should say nearly a month before the last one was reported to me. I think there was quite a hiatus. There were a number for several days and then there was quite a lapse of time before the last one occurred.

Mr. KENNEDY. That is all, Mr. Chairman.

The WITNESS. I should think the whole time covered was about a month.

The CHAIRMAN. Mr. Foster, have you any questions for this witness?

Mr. FOSTER. If Mr. Kennedy is entirely through with him?

Mr. KENNEDY. Yes.

By Mr. FOSTER:

Q. State what, if any, search you have made for the original books, records, and correspondence of La Abra Company.—A. I went to the office of the building where this office used to be kept in 1878; I mean I went in 1878, you understand—not kept in 1878—I went in 1878 to the building where the office of the company used to be kept, and a janitor and I went through the boxes in the attic of the building. I do not mean I went into all of them, but we overhauled them. Those that were nailed up and had other names on them of course we did not touch, but those that could be opened of course we looked into them to see what they contained. I also went into the cellar of the same building with the janitor and overhauled the contents there. That is the only place I knew to go where they might possibly be. I requested

Mr. Garth to make a search. I do not know as that comes into your question.

Q. No; just what you did yourself and what you know was done?—A. Yes; I understand.

Q. Whose office was this you speak of; an office in a building where you supposed they might be found?—A. I said I went to the building where the office of the company had been kept. That office was occupied by W. N. Worthington.

Q. Did the company keep an office?—A. That was its office, so far as I know. I do not know that it had any other office.

Q. Well, was that the office of the company or the office of Worthington, where he kept the books of the company?—A. Well, I have understood it was the office of the company. Of course it might have been his private office, for all I know. He might have had his office there too. I don't know anything about that.

Q. Who else occupied that same office?—A. Nobody that I know of; I never saw anybody occupy it but himself.

Q. Was it not in the same building and connected with the office of Mr. Garth and his associates?—A. Yes, sir.

Q. Was not the entrance through Mr. Garth's office?—A. Yes; I don't remember whether it had a side entrance to the hall or not. There was an entrance through Mr. Garth's office, and I think that is the way it was usually reached.

Q. Was Mr. Garth occupying the office at the time you made the search?—A. No, sir; not at the time I made the search.

Q. Who was?—I don't know.

Q. Did you go into that office?—A. I don't think I did.

Q. You made no inquiry of the persons who occupied the office?—A. No, sir.

Q. You simply went to the janitor of the building?—A. To the janitor, and went into the attic and we overhauled the boxes.

Q. Did any person accompany you?—A. No, sir.

Q. What was the object of the search at that time?—A. The object was to find the correspondence especially. That is what I was after. It was when I learned of this Slaughter pamphlet here. I wanted to get at the original correspondence; I wanted to see what it was.

Q. What office or building did Mr. Garth occupy at the time you made your search?—A. Well, I do not think he was in business in New York at that time. His son's place of business was in Broad street, and I think he made his headquarters there.

Q. Well, was not his son the successor in his business?—A. Yes; in the tobacco business, not in the banking business. He had no successor in the banking business. He closed up entirely.

Q. Well, he quit the banking business in what year, or about what time?—A. I think he quit it, sir, about—well, I should dislike to say about that. I should think it was about 1877—no; the banking business he must have gone out of before. I think he quit business in New York in 1877. When he went out of the banking business he went into the tobacco business again.

Q. Well, he was the treasurer of the company, was he not?—A. He was the treasurer; yes, sir.

Q. And he went from that building to another building in the city and carried on business, did he not?—A. Well, I would not like to say, but went into business direct; I think he did.

Q. Do not you know now that he went into the tobacco business and

his son succeeded him in that business?—A. I think he did, but I could not say positively.

Q. Did you go to the building where Mr. Garth's tobacco business was carried on, or had been carried on, and make search?—A. No, sir; I did not.

Q. Was not it as likely that Mr. Garth would have charge of those books as the janitor?—A. Quite as likely.

Q. Is this the only search you made?—A. That is the only search I made.

Q. Did Mr. Garth's son become, or was he at that time, or did he afterwards become a stockholder, or an officer of the company?—A. Mr. Garth's son had one share of the stock transferred to him and he became a stockholder to that extent.

Q. What was the object of the transfer?—A. To make him a trustee.

Q. To represent his father's interest?—A. Yes; I assume that is so.

Q. Did young Mr. Garth occupy that position as a stockholder or trustee at the time you made this search?—A. I am unable to say; I am unable to say about that. It was about that time. It might have been a little before or a little after; I could not fix the date.

Q. I think you answered that this was the only search you ever made?—A. That is the only search I ever made; yes.

Q. Did you cause any other search to be made by any other person?—A. Yes; if requesting the party to make it would be causing it, I caused it to be made.

Q. Who was that party?—A. D. J. Garth.

Q. When was that?—A. In 1878. I went to the store of his son and there I met Mr. Garth, and told him what I was in quest of, and I asked him where I could find them. He replied they might possibly be down at his old tobacco store in Water street.

Q. Did you make request of any other person for a search?—A. No, sir; none other.

Q. At that time or at any subsequent time?—A. No, sir; no other.

Q. When did Mr. Baldwin become president of the company?—A. In the year 1876, I think; my best recollection of the time.

Q. Did you never request him to make a search for the books?—A. No, sir.

Q. Did he ever request you to make a search for the books?—A. No, sir.

Q. There was a suit pending against the company by the Bank of California, was there not?—A. No, sir; never.

Q. Never was a suit?—A. Never was a suit against the company by the Bank of California.

Q. Well, individual members as stockholders?—A. The suit was brought against the trustees as individuals to make them liable, personally, for a penalty for supposed neglect of duty in filing an annual report. The company was never sued by the Bank of California.

Q. What was the basis of that suit?—A. The basis of that suit was that the Bank of California had made an advance to the company of \$5,000 in gold, and that the trustees of the company, who were made defendants in the suit, had omitted to file certain annual reports which the law of New York specified should be done, and that by reason of that failure the trustees had become individually liable to pay all the debts of the company, and the bank sought to fasten upon them all that individual liability.

Q. Was that a penalty?—A. It is a penalty, yes; a penalty for the omission to supply their annual reports.

Q. The money they had loaned was in the shape of cashing a draft drawn by the superintendent of the company, was it or not?—A. The complaint did not say any otherwise than it was for money advanced. I will admit, if you wish that to be so, that it was for a draft for money advanced to the superintendent by the Bank of California in cashing some draft that was drawn by the superintendent on that bank. At all events it was a \$5,000 loan—an advance for the use of the company.

Q. What was the advance you understood to be for the company?—A. The company did not advance—that was—

Q. I mean the parties of the suit?—A. It was held they were not individually liable for the debts of the corporation.

Q. Did you raise the question of the incorporation of the Bank of California?—A. That was raised in the trial; yes.

Q. What was the result of the suit?—A. The Bank of California was defeated.

Q. When was the suit finally disposed of?—A. The trial was ended in 1874. There were some other proceedings after that if you would like to know what they are.

Q. Yes; we would be glad to hear them.

The CHAIRMAN. Do the records show?

Mr. FOSTER. Mr. Baldwin has testified that pending the suit he made a search about 1883.

The CHAIRMAN. You want to fix the time.

Mr. FOSTER. Only when Mr. Ely made a search at his request.

The CHAIRMAN. Of course the record is the best evidence of what the suit is brought for. You have got that here.

Mr. KENNEDY. Yes, we have got that.

Mr. FOSTER. I am free to say that my intention is to test his memory as to his search.

The CHAIRMAN. In that connection the examination can go on.

By Mr. FOSTER:

Q. You can proceed, Mr. Ely.—A. The suit was tried in 1874 and the circuit judge dismissed the complaint for failure of proof, to which the defendant excepted, and it was directed that the exception should be heard at the general term before a judgment was entered—the general term is the court in banc of three judges. That exception was argued at the general term, and the general term decided that the circuit judge had decided rightly and ordered judgment for the defendants. Then after that Mr. Collins died, and some time after that a motion was made by the Bank of California to revive the suit as against the executors. That motion—

Q. Who were his executors?—A. His son and his widow, I think. That is my recollection of it.

Q. Well, when was that proceeding finally ended?—A. That is what I was proceeding to tell you.

Q. Well, I think we can shorten your testimony.—A. Very well; that was ended about 1877 or 1878.

Q. Were there other proceedings about the year 1883?—A. The Bank of California?

Q. Yes.—A. None, whatever, sir.

Q. You never went to see Mr. Baldwin in relation to that suit or that claim of the Bank of California about the year 1883?—A. No, sir; Mr. Baldwin is mistaken as to time; he has got confused as to dates. I did call and see him about 1878.

Q. What books and papers are now in existence belonging to La Abra

Company?—A. Well, sir, I have a check-book begun in the year 1879, and I have minutes of the proceedings since 1876, and I have what you call, I suppose, a stock ledger.

Q. Have you completed the list?—A. I think a certificate book—yes, a stock certificate book.

Q. Were these books made up by you, or some other person?—A. They were made up by me, except the stock certificate book.

Q. From what data or memoranda?—A. The minutes of course would be made from the proceedings. The check-book would be the payments and would state the moneys deposited and paid of course.

Q. How was the stock made up?—A. The stock-book was made up from the certificates.

Q. On the certificates that the stockholders held?—A. Yes, sir.

Q. How did you know who were the stockholders?—A. From the stubs of the certificates in the certificate book.

Q. What certificate book?—A. The certificate book of La Abra Mining Company.

Q. That is the original book?—A. Yes; the original stock-book.

Q. From which the stock had been cut off?—A. Cut off, yes; the stubs were there.

Q. When did that book begin to be used?—A. When the company was organized, in 1865.

Q. What other books have you of the company that were used at the organization, or soon after the organization?—A. None other whatever.

Q. From whom did you obtain this book?—A. I got it from the safe of Mr. Collins.

Q. When did you get it?—A. I got it in July, 1876, when I became a trustee.

Q. Did you at that time make any effort to obtain the other books?—A. No, sir; I had no occasion for any other.

Q. What use had you for that rather than the others?—A. We had to transfer stock. A share was transferred to me to make me a member.

Q. That was after the award had been rendered?—A. Yes.

Q. You came into the active management, or participation, in the management of the company after the award?—A. Yes, in July, 1876.

Q. You had nothing to do with the management of the company previous to that time?—A. Not a thing; no, sir. I was occasionally consulted as attorney the same as any other lawyer would be; nothing else.

Q. Were you consulted by the company when Exall returned from the mines in 1868?—A. Well, I was spoken to by Mr. Collins; whether you would call it consultation with the company or not, I don't know. If you would like me to tell you what occurred, I will do so with pleasure.

Q. Did you attend any of the meetings of the trustees at that time?—A. No, sir; not before I became a member myself.

Q. Did you know anything about the meetings of the trustees after Mr. Exall's return?—A. No, sir.

By the CHAIRMAN:

Q. You speak of getting this book from Mr. Collins's safe?—A. Yes.

Q. Was there any other paper or letter or memorandum or book relating to the business of this company in that safe at that time?—A. Not that I saw or know of.

Q. Do you know how this book happened to get separated from the balance of the papers?—A. I could not tell you positively. I could tell you how I think it was.

Q. If you know anything about it?—A. Mr. Collins was an elderly man and Mr. Worthington a young man, and their offices quite a distance apart, and as Mr. Collins would have to sign all the certificates as president, I suppose that Mr. Worthington, instead of lugging that book down there and back, took it down there and left it, and it was put in Mr. Collins's safe. Now, I don't know anything about that. That is the way I suppose it was.

Q. In what business was Mr. Worthington engaged at the time of this company?—A. I don't think he was engaged in any. He was a man of means and a bachelor.

Q. Where did he keep his office?—A. I suppose the office he had was with D. J. Garth & Co.

Q. Did he continue to occupy that office?—A. I think he did until he left New York City.

Q. When did he leave New York City?—A. My impression is that he left the latter part of 1868.

Q. Did you make up the allotment of these two installments of this award between the persons entitled to it; from what memoranda or data did you make it up?—A. Well, from the data which was furnished to me by the members themselves; the stockholders themselves.

Q. Each individual man came up and stated his account?—A. No, sir; the statements were sent—some stockholders' statements were sent by other stockholders.

Q. In making up this allotment of the money on this award did you have no reference at all to any record or book kept by that company?—A. No, sir; none whatever.

Q. Did these respective gentlemen hold evidences of debt against the company?—A. Well, I don't know, I can not say it could be called evidence of debt. I don't know how that would be.

Q. Any memorandum or note or bill?—A. Nothing signed by the company; no, sir. I understand now your question. I would say they did not have any evidence of debt.

Q. So that you made up this distribution entirely from their own statements of what the company was owing them?—A. Yes, sir; they were all parties in interest.

Q. Well, that would have been a good time for your having these books, would it not?—A. Yes, if—

Q. Did you make any search at that time?—A. Not at all.

Q. At the time you made the allotment of this fund you made no search for the books?—A. None at all.

Q. How did you ascertain what was due General Adams?—A. By his contract with the company.

Q. Was the contract there present?—A. Well, there was a contract there; yes, sir. His was there, I think.

Q. Was he there?—A. His contract was. He was not there in attendance as a member of the board of trustees. He was out and in.

Q. Was he present at the time the allotment was made to him?—A. Yes, sir.

Q. Now, there is testimony in this record of what was called advancements or contributions, assessments made upon the different members of this corporation for the purpose of paying legal expenses, such as taking depositions and other incidental expenses to the prosecution of this case before the Joint High Commission. Is there any memoranda in your possession showing what the expenses were and who paid each item of expense?—A. Well, I don't know whether there is or not. I

should think there was not. There may possibly be some memoranda left.

Q. Now, in the distribution of this award, you first, as I understand it, set apart the amount of money that was due to these various persons who had made advancements?—A. I can not say whether that was the first thing done or not.

Q. Well that was done?—A. Yes, sir; they were paid.

Q. How did you ascertain the amount paid each?—A. From the memoranda which had been submitted by these persons.

Q. Each man would come up and state what he had expended?—A. No, sir; I have not said that; I said some sent their statements by other parties.

Q. Well, they came up or sent what was the expense?—A. A statement was furnished of the amount furnished by each.

Q. Were there many of them?—A. Well, I should think there might be a dozen, perhaps more. I do not know whether that would be regarded as money or not.

Q. In the distribution of this fund was any part of it paid on the original stock subscription of the company?—A. No, sir.

Q. You did not get to that?—A. No, sir.

Q. The expenses of one kind and another absorbed this entire amount without the stockholders receiving from it anything?—A. And General Adams under his contract.

Q. That is part of the expenses?—A. Well, if you call it expenses, that is part of it.

Q. And your \$10,000?—A. Yes; that is, part of it.

A. Was anything paid to the assignees of this award?—A. I don't know that there were any other assignees at that time. It may be that some of the counsel—

Q. Have you recollection of about who was paid and who was not?—A. I think all the counsel were paid their proportion, whatever it was. If there were any assignments I could not state—

Q. Well, have you any book now that shows the distribution of that award?—A. Yes, sir.

Q. You have a book?—A. I have a book.

Q. Did you have a subpoena *duces tecum* to bring that book here?—A. I did not.

Q. You did not?—A. No, sir.

Q. Was not it served upon you?—A. No, sir.

Q. There was no subpoena served upon you until this morning?—A. No, sir.

Q. Where have you been the last two or three weeks?—A. Part of the time in Chicago and part of the time here.

Q. When did you leave New York?—A. Not over three weeks ago.

Q. Have you received any notice from counsel or any one here that you were expected here and that a subpoena was out for you to bring those books and papers here?—A. No, sir.

Q. You received no information?—A. No; I received no information about books or anything of that kind.

Q. You have not been in communication with your counsel, have you, during the last three weeks?—A. No, sir. I had a telegram—

Q. Have you sent them any papers within three weeks?—A. No, sir; I have not within three weeks sent them papers. I did just before I left New York—

Q. How long ago was that?—A. I left the 4th of February. That is my recollection.

Q. Where did you go; back to New York?—A. I have not been back there.

Q. You came from Chicago here?—A. Yes, sir.

Q. Were you in communication with counsel here; did they know where you were?—A. One of the counsel knew where I was—Mr. Birdsell.

Q. Does he reside in the city?—A. His office is in New York; he resides on Long Island.

Q. Did any of the counsel here in Washington know your whereabouts?—A. No, sir; not at that time.

By Mr. LINES:

Q. Mr. Birdsell is in the city, I think; is he not, Mr. Kennedy?

By the CHAIRMAN:

Q. Is Mr. Birdsell here now?—A. Yes, sir.

Q. How long has he been here?—A. I can not say that. I saw him yesterday.

Q. You do not know when he came here?—A. No, sir; I do not.

Q. Now state what distributions were made to counsel out of this award.

Mr. KENNEDY. I think that is a matter of record.

By the CHAIRMAN:

Q. Each one?—A. Well, I respectfully decline to answer. I think that is the private affair of this corporation, and it is not within the purview of this examination.

Q. You decline to answer?—A. I do, and I do that most respectfully.

Q. Oh, of course, it is all done very respectfully; but at the same time how much money was distributed to counsel?—A. That I could not tell you.

Q. About how much?—A. That I could not say. I could tell you about how much in whole was distributed very nearly, but how much was distributed to counsel I could not tell you.

Q. You could not answer, then, how much was distributed to each of the counsel?—A. No; I have the means of finding out, but do not know.

Q. You have the means of finding out?—A. Of course I could find out.

Mr. KENNEDY. Mr. Chairman, I would like to enter a brief objection to that on the ground that this distribution of money to counsel and others was after the award, and is not within the scope of this investigation.

By the CHAIRMAN:

Q. What other expenses were paid out of this award besides the expenses of counsel?—A. All expenses that are incident to the prosecution of this claim.

Q. What are they?—A. Oh, I could not tell you.

Q. Name some of them?—A. No, sir.

Q. Can not tell any of them?—A. One of them would be the expense, and, of course, the money that went to General Adams for his part of the services.

Q. What else?—A. One item would be lawyer's expenses.

Q. What else?—A. And one item would be expenses for contributions.

Q. For contributions?—A. Yes.

Q. Contributions to what?—A. Contributions—money that went to pay expenses in prosecuting the award.

Q. Well, what expenses were paid out of these contributions?—A. What is the question?

Q. What expenses were paid out of these contributions you speak of towards this case?—A. I do not know of any other except the expenses that were incurred by General Adams—general expenses.

Q. Were any expenses paid to witnesses?—A. Not that I know of; never knew of any.

Q. Never heard of it?—A. No, sir; never heard of any.

Q. Anything paid to Exall?—A. No, sir; not a cent.

Q. How did you get the money with which Exall was paid his salary?—A. That is something I knew nothing about. That was prior to my time.

Q. You do not know that that money was contributed by the stockholders?—A. To Exall?

Q. Yes.—A. No, sir; I knew nothing about that.

Q. Have any funds or assets besides this award ever come into your hands as one of the trustees of this company?—A. No, sir.

Q. Have you realized anything from the property in Mexico?—A. No, sir.

Q. Have you attempted to do it?—A. No, sir.

Q. Have you any memorandum of the property that was left in Mexico?—A. No, sir.

Q. Do you know what disposition was made of it?—A. Except what appears in the depositions in the case on file before the Commission.

Q. You abandoned it?—A. It was abandoned; yes. That was the way I understood it.

Q. By the company?—A. By the company.

Q. Abandoned to whom?—A. Well, that, I should suppose, was a legal question; I do not know. It was abandoned; I do not know you could say to whom. Anybody might take it, I suppose, or Mexico. I could not tell you about that.

Q. By abandonment you mean, then, that the property was merely left there?—A. Yes.

Q. Without any person using it for the company?—A. The chairman used the word abandoned. I did not use it myself.

Q. Well, we have got a definition of it now. The property that was abandoned was not looked after by the company after Exall's return?—A. I can not tell you about that, but not after I came in to act as trustee, which was in 1876. As I understood it there was then no property in Mexico belonging to the company. This so-called abandonment, if you choose to use that phrase, was in 1868. I had nothing to do with matters then and knew nothing about them except in a general way. What the company did then I could not tell you.

By Mr. BROWN:

Q. I want to ask if the interference of the authorities with that property had anything to do with causing its abandonment?—A. So I understood. Of course I had no personal knowledge of it. I understand that from the evidence in the case.

By the CHAIRMAN:

Q. You have no other knowledge of it except what is disclosed in the evidence in the case and the papers?—A. And except what Exall told me, if that can be considered knowledge. That was before I became officially connected with the company.

Q. I wish you would state to the committee now the last time that you made any examination for the purpose of getting at these letters and

papers of this company.—A. It was in 1878 and, as nearly as I can remember, the month of April.

Q. How long was that before this distribution of the award took place?—A. It would be about a year and a half.

Q. And between those two dates you did not make any examination to find those papers?—A. Never, of any kind, since that time.

By Mr. FOSTER:

Q. I would like you to state what connection you had with, or knowledge of, the affairs of the company at its organization and up to the time of Exall's return to the United States.—A. Well, my connection with the company at its organization was the preparation of the certificate of incorporation, and the interviews which I had with several of the gentlemen preceding that and at that time. Do you wish me to state what those interviews were?

Q. No. Have you finished?

Mr. KENNEDY. Well, there is a part of the question that you have not answered.

The WITNESS. Please repeat your question?

(The stenographer read the question, as follows:)

Q. I would like you to state what connection you had with or knowledge of the affairs of the company at its organization and up to the time of Exall's return to the United States?

A. My connection with it was that of counsel and attorney for the company. That was my only connection with it.

Q. Or knowledge of its affairs, was the question?—A. All that I derived from occasional interviews with members of the company, as one lawyer might have with a client.

Q. You never examined its books or records?—A. No, sir; never; never was invited to nor had occasion to.

Q. You had some connection with the suit of John H. Garth against that company, hadn't you, during that period?—A. Yes; my firm appeared for the plaintiffs in that case.

Q. What did you understand that suit was based upon?—A. Based upon moneys advanced by the gentlemen in whose favor the various claims set out in the suit—advanced to pay drafts that had been drawn on the company by its superintendents.

By Mr. KENNEDY:

Q. That suit is all in record here.

Mr. FOSTER. Well, I am on cross-examination. You don't know what I want to develop by this cross-examination.

The CHAIRMAN. Well, let us see, gentlemen. If it is a matter of record, of course you don't want to bring it out again. I suppose you have some purpose, though.

By Mr. FOSTER:

Q. Do you know whether that money which those notes represented were occasioned by the financial embarrassments of the company?—A. I do not know that the company was embarrassed. I knew they wanted money, and these moneys, as I understand it, were to meet that. If it had been unable to get the money, that would have constituted embarrassment.

Q. What would they borrow money for?—A. Because they needed it—needed it for use.

Q. Would they borrow money if they had it in the treasury or could

obtain it from the stockholders?—A. They did obtain it from the stockholders.

Mr. KENNEDY. That is all argument.

The CHAIRMAN. Yes, that is rather an argument.

Mr. FOSTER. You will see a little more clearly my object in the last part of the deposition.

The CHAIRMAN. Very well.

Mr. FOSTER. I wanted to ascertain how he could make such a declaration under oath.

The CHAIRMAN. Yes; if you are examining him on the deposition you can go ahead.

Mr. BROWN. Well, I think his attention should be called to the deposition.

Mr. FOSTER. I am not asking him anything about his deposition.

Mr. KENNEDY. You can call his attention to the deposition and have any explanation you see fit.

By Mr. FOSTER:

Q. Did you know whether or not the stock of the company was all paid at the time those suits were brought?—A. All the stock that was issued was paid up. There was a quantity of stock that was never issued.

Q. Yes; but all the stock that was issued was paid up?—A. So I understood. I never had any personal knowledge—did not have of the fact.

Q. Well, what did you know at that time of the financial condition of the company up to the time of Exall's return to the United States?—A. Well, sir, up to the time of his return I knew they had no money on hand. That is the way I understood it, and that they borrowed money to meet the drafts upon them.

Q. Did they have any other means of obtaining it except by borrowing it?—A. No; I think not, unless they issued stock and sold it. If they did not issue stock there would be no other way to obtain it except by borrowing.

Q. Did the company have any means to raise any money by loans—have any credit that would justify it?—A. Well, whether the company then had credit I do not know. The individual stockholders had.

Q. I am speaking of the company itself.—A. I do not know how that would be.

Q. Well, you know that suit had been brought against them and judgment obtained?—A. None that I know of, except the John Garth judgment, and that was brought by the direction of the trustees themselves.

Q. I find that you made a deposition dated on the 24th of September, 1874?—A. Yes, sir.

Q. In which you stated—

the expulsion of the company from its mines and property in March, 1868, utterly ruined the business of the company, rendered its stock entirely valueless, and prevented the company and its stockholders from receiving any return whatever for the expenditures made by them in said enterprise.

Now, if you knew nothing about the affairs of the company other than that stated by you here how could you make any such deposition as that?—A. I don't see that there is anything inconsistent in that, sir, with anything I have said.

Mr. FOSTER. Well, we will pass from that.

By the CHAIRMAN:

Q. Let me ask him a question on that before you get away from it. In that deposition do you mean to state as a matter of fact within your

knowledge the language that General Foster has just read to you?—A. It is a long matter, sir. Read the part of it, please.

Q. (Reading.)

Said company was formed, its expenditures were made, and its business conducted in the most perfect good faith, for the purpose of carrying on a regular and continuous mining business in Mexico, relying solely upon the products of its mines for reimbursement and profit.

A. Yes; that I understood to be the case.

Q. Well, but did you know that of your own knowledge?—A. Well, I know it in this way from what the gentlemen said; if that would be considered here, yes. If not, it is derived from information.

Q. We will go further.

And in the fullest belief of its originators and stockholders that said business would prove highly remunerative.

A. Yes; that they thought they had the biggest bonanza in the world; all up in the clouds about it.

Q. (Reading.)

And they had ample means to conduct it to a successful issue.

A. Yes; the stockholders were rich men.

Q. (Reading.)

But the expulsion of the company from its mines and property in March, 1868, utterly ruined the business of the company.

A. Now, I do not mean to say that I knew it was expelled, but, assuming that to be so, that expulsion ended their business there entirely; ruined it; ended it.

Q. (Reading.)

Rendered its stock entirely valueless.

A. Yes; could not give it away after that.

Q. (Reading:)

and prevented the company and its stockholders from receiving any return whatever for the expenditures made by them in said enterprise.

A. Certainly; that is based on the statement that they were expelled, of course.

Q. Now, did you mean in that to swear that these were facts within your knowledge?—A. I did not mean to swear that the company was expelled, if that is what you mean, within my knowledge, but if you mean whether the other facts based on that are so, yes.

Q. Well, how could you state—

The expulsion of the company from its mines and property in March, 1868, utterly ruined the business?

A. Well, that is all the business they had. That ended it, of course.

Q. How could you say—

The expulsion of the company from its mines and property in March, 1868, utterly ruined its business

if you did not know the company was expelled?—A. If the fact was that they were expelled, that ruined its business.

Q. You do not so state it. In your deposition you state—

The expulsion of the company from its mines and property in March, 1868, utterly ruined its business.

A. I think that is a fair statement, that the expulsion ended its business; ruined it.

Q. Providing there was an expulsion?—A. Certainly. I did not

mean to be understood there as stating that the company was expelled.

Q. Well, you say "expulsion." Suppose the ores were not valuable, could not be worked to profit, what then would have ruined its business?—A. I suppose that the expulsion would have ruined it.

Q. Primarily?—A. Yes, of course, ended its business.

Q. Well, what pecuniary harm could come from the expulsion of a company that had a mine that was not worth anything?—A. Well, if you put it that way I do not suppose there could. "Its business"—you do not use the word "business" there in the sense I do. Now, this company was organized to carry on a particular business, and it could not carry on any other under its charter. That expulsion—assuming that expulsion—ruined that business. That is the sense in which I used that word there.

Q. (Reading:)

Said company never sent an agent or commissioner to Mexico, from the United States or elsewhere, for the purpose of examining into the enterprise on behalf of the company.

How do you know that?—A. Well, I know the same as any man knows of matters that are described; I am very sure they never sent anybody.

Q. Well, do you know they never did?—A. Well, if you—in one sense I think it can be said I did not know, of course, sir. I did not see who went there every day, but I am sure the company never sent anybody out there except Exall, the superintendent, and de Lagnel.

Q. Were you stating then your impression and belief, or were you stating it as a fact?—A. Well, I should think, in one sense, you could not say that I knew it actually, because I did not know—

Q. Anything about it?—A. Who went forward and backward.

Q. You have stated here several times to-day that you did not know anything about it.—A. About what?

Q. The transactions of the company except your transactions with the company.—A. Except as attorney. I say so now.

Q. Now, I ask you again:

The only persons sent from the United States by said company were Julian A. de Lagnel, and subsequently Charles H. Exall, and they were sent as superintendents, and for the purpose of discharging the duties of that position.

How do you know that?—A. I knew that from general acquaintance with the transactions of the company.

Q. But you do not mean now that you knew it all as fact?—A. Yes, I knew the fact that Exall went out there. That I knew positively—started, at all events, with a view of going there. I saw him before he went.

Q. What did you know about de Lagnel's going?—A. I never saw de Lagnel. I knew in a general way that he went; that is all.

Q. If you never saw him, and were not familiar and present with the company, how could you state on oath that de Lagnel was sent there by the company as superintendent?—A. I knew in a general way that they had employed de Lagnel and sent him down there.

Q. But you did not know the fact?—A. I did not know from my own personal knowledge. I did not see him start and was not present when the contract was made.

By Mr. BROWN:

Q. You state that you were the general counsel of the company?—A. Yes.

Q. Do you mean you had a general knowledge of its affairs on account of the frequent consultations you had with it as counsel?—A. A general knowledge; yes, sir. I would not have specific knowledge; a sort of a general knowledge of their affairs.

Q. Well, had you received information from other persons in whom you had confidence, that they had been expelled from their mines in Mexico?—A. Yes, sir.

Q. Did you act upon that statement, believing it to be true when you made the statement in your affidavit that they had been expelled?—A. Yes, sir.

By the CHAIRMAN:

Q. What persons informed you, besides Exall, that this company had been expelled from Mexico?—A. Nobody.

Q. Then you did not hear it from other persons?—A. No, sir.

Q. You meant that you heard it from another person?—A. The only person who told me about the expulsion was Charles H. Exall.

By Mr. FOSTER:

Q. Can you state the amount of money that was contributed by stockholders towards the expenses of the prosecution of this claim?—A. No, sir; I can not.

Q. Was there any agreement made with General Adams on or about the 9th of December, 1869, with regard to the prosecution?—A. Yes; there was.

Q. Was it not arranged about that time that \$3,500 would be contributed by the company?—A. At least \$3,500; that is, that was the arrangement.

Q. Mr. Garth and, I think, Mr. Baldwin have testified of two different occasions at which assessments or collections were made. This was the first one, was it?—A. That is as I understand it, but I was not a member of the company at that time.

Q. Was there some adjustment of accounts made with Adams, and an agreement reached that the company would contribute \$10,600, or thereabouts, in 1878?—A. No, sir; never was any such agreement made.

Q. Well, then, can you fix what the amount was of the second contribution?—A. No, sir; but I know there was no agreement between the company and Adams about it at that date—

Q. No; but was not there an adjustment of accounts?—A. No, sir; there was no occasion for adjustment with Adams at all until we got some money in 1879. I know you refer to Mr. Bartley's bill there, which is very wild in its statements.

Q. Do you know who withdrew those exhibits from the records of the court in this suit of Bartley and Stanton against La Abra Silver Mining Company?—A. No, sir; I know nothing about their being there.

Q. Were you aware of the suit?—A. I was aware the suit was brought; yes.

Q. Did you ever see the bill?—A. Yes.

Q. Well, you must have been aware of the exhibits?—A. Well, you ask me who withdrew them from the file. I was not aware there was any such thing on file.

Q. Well, they must have been filed originally if they were set forth in the bill?—A. I don't know anything about that.

Q. How does your recollection conform to the fact that \$3,500 and \$10,600 is about the amount contributed to the expenses of the suit?—A. I have no recollection of that at all.

Q. You have no recollection?—A. No, sir.

Q. Whether it is \$14,100 or \$100,000?—A. No, sir; I can not specify the amount.

Q. Well, I am trying to get your best recollection.—A. I do not know what the amount is. It was contributed before I became a member of the board if trustees.

Q. Well, is there no record of the amount contributed before that time?—A. I do not remember that there is.

Q. Is there no record in the books you have?—A. I do not remember as to that.

Q. Where are those books and papers now?—A. The books I have?

Q. Yes.—A. In the city of New York.

Q. You have had no intimation that they were wanted?—A. No, sir.

Q. What is the name of this attorney you spoke of that knew where you were?—A. John Birdsall.

Q. Did the counsel residing in this city have Mr. Birdsall's address?—A. I don't know how that is. I could not tell you about that.

By Mr. LINES:

Q. You were counsel for the company since its organization, Mr. Ely?—A. Yes, sir; general counsel.

Q. You stated in your deposition before the Commission, I believe, that the company was formed on a gold basis, and the stock was paid for in gold?—A. The stock was to be paid for in gold; yes.

Q. Was it actually paid for in gold?—A. So I understood. Of course I did not see it paid. I have always understood it so.

Q. Did you have anything to do with the reports of the company filed in the clerk's office in the city of New York?—A. I did after I became a trustee in 1876. I had nothing whatever to do with them before.

Q. I want to get from you, Mr. Ely, if I can, an explanation of a difference of some \$78,000 between the amounts reported as paid on stock subscription in the report of January 20, 1868, and the amount sworn to by Mr. Collins in his affidavit of September 28, 1870, in use before the Commission?—A. The amount stated in the annual report made in 1868, as I understand it—of course I did not make that report, I told you—as I understand the facts—you can take it or not as you like—represented exactly the amount that had been paid in gold; expressed in gold on the stock. There was no stock issued, Mr. Lines. I say this because you have an apprehension that there has been a fictitious issue of stock.

Q. No, no.—A. There has been no stock issued since March, 1868. That comprised 1,570 shares, which would make \$157,000, being paid in gold. Now, as I understand it, the annual reports made in 1868—those reports I do not know who drew them, they were not drawn by me. I presume they were drawn by the trustees themselves. This law is a short law, and it is—

Q. I don't care about that.—A. I will go on to the other point. Now, the amount paid for that gold was \$235,000 currency, as I understand it, and this annual report of 1877, which was the first report after 1868, expresses that amount in currency; expresses what the gold cost in currency.

Q. Do you know, of your own knowledge, whether that \$235,000 was the currency value of the amount, \$157,000?—A. No, I do not; all I know is from what Mr. Collins stated when his deposition was made and from his deposition. I have no knowledge of that fact personally. It is a thing I could not know.

Q. You know that the award was made in Mexican gold?—A. I don't

remember how that was. If Mr. Lines says the award was so, of course it was so. I simply say I don't remember how it was.

Mr. KENNEDY. We will admit that.

The CHAIRMAN. That is the fact.

By Mr. LINES:

Q. Did you have anything to do with the preparation of the claim before the Commission?—A. No, sir; not except I drew Mr. Collins's affidavit.

Q. You drew Mr. Collins's affidavit?—A. Yes. I had no other hand in what may be called the preparation of the case. Mr. Stanton wrote up to me and asked me to get a deposition from one of the officers of the company, and sent me the points, and I drew that. That is the only thing I had to do with the preparation of the case.

Q. Was it your intention in drawing Mr. Collins's affidavit to reduce the \$157,000 to a currency value?—A. I asked him distinctly. I sent down to his office for the data and he sent me up a memorandum, and I draughted the deposition as I understood that data, and then went with it to his office, knowing, as I did, that they had their stock paid in gold. I asked him whether that \$235,000 represented gold or represented currency, because if it represented gold he had, in my judgment, wrongly stated it; it ought to be stated in currency; and he said it represented currency which the gold had cost. That is all the knowledge about it that I have.

Q. When you drew your own affidavit and said that the expenses of the company had been paid in gold, or substantially that the company had been organized on a gold basis, did not you think that you might run the risk of deceiving the Commission when Mr. Collins had not, in his deposition, stated that this was the currency value?—A. No; I stated the fact just as it existed.

Q. Did you know at that time that Mr. Collins had not said in his deposition that this \$235,000 was not currency?—A. I knew distinctly that it was currency. He told me the \$235,000 was currency. That was the only proper way to state it in New York. When you say a dollar there you mean currency. I did not know how the commission was going to render this award, gold or currency, or what not. I knew nothing about that.

Q. In filing a declaration in a suit on a contract where the contract was to be paid in gold, would not you have specified that the money for which you sued was gold?—A. Well, that would depend on the form of the contract, Mr. Lines.

Mr. KENNEDY. Mr. Chairman, I want to save a little time if possible. I think our friends are proceeding on a misapprehension of the rule both in business and law regard to gold and currency. The rule is, as I understand it, that where money is to be paid in gold, gold must be expressed, but that if gold is not expressed then the currency of the country is understood.

The CHAIRMAN. Oh, yes; that is a very clear law.

By Mr. LINES:

Q. Did you draw the memorial?—A. No; that was drawn, as I understand, by Judge Abbot Rose.

Q. Do you know whether the books were in existence in 1870?—A. In 1870? No, sir; I do not.

Q. Were you consulted as to the evidence proper or necessary to be filed before the commission in support of the company?—A. No, sir;

I saw some of the evidence that was filed. I never was consulted. That was controlled here by Mr. Stanton and Judge Black.

Q. Do you know whether they had access to the books of the company at that time?—A. No, sir; I am quite confident they had not.

Q. Did they ever inquire as to whether the company had any books or reports?—A. I never knew of their making any inquiry; do not believe they ever did.

Q. When they were counsel of the company did they never write you making any inquiry about books?—A. Such letters as were written to me as counsel direct came into my hands, and they never made any inquiry about the books of the company.

Q. When did you first learn of any alleged negotiation that anybody was attempting with Mr. Exall for the purpose of securing testimony in relation to the award?—A. I learned it from him in January, 1878.

Q. When, to the best of your knowledge, did it commence?—A. My knowledge is simply derived from him. He said that Mr. Weed had been to see him that morning. It commenced that day, I suppose.

Q. You understood it to be the first day?—A. Yes.

Q. He came to you direct?—A. No; he came to see Mr. Baldwin, who was the president, and not finding him said he wanted to see me.

Q. Do you know what Mr. Exall was doing at that time?—A. I am quite sure he was the book-keeper or cashier, I guess it was, of Mr. Tuttle's house, but I am not certain about that. He was book-keeper there for one or two firms at one time, and I think he was with Mr. Tuttle at that time.

Q. Do you know whether he left the city shortly after this negotiation?—A. I don't think he did. I think he died in the winter of that year. I don't know of his leaving the city before his death.

Q. Did you ever ask him to leave the city?—A. No, sir; never heard of such a thing nor thought of such a thing; never had any idea there was any object in his leaving the city.

By Mr. KENNEDY:

Q. Where were the books of the company showing the ores extracted from the mines, the expense of the extraction, and the cost of the machinery kept?—A. At the mines, so far as I know. I have no definite knowledge on that subject. I understood they were kept there; that is all.

Q. Now, do you know whether any of those books were brought from the mines by Exall at the time that he left Tayoltita in 1868?—A. I understood from him that he had left everything there behind him. I never saw any books that were kept there except that I have seen the alleged letter-book here before this committee last fall.

Mr. FOSTER. Mr. Chairman, I would like to make a statement to go upon the record. If the affidavit which has been offered to-day of Exall is finally decided by the committee to be proper and is admitted on the record, I then desire to ask that all the affidavits which the Mexican Government has submitted to the Secretary of State or to either branch of Congress which have been published in official records—and the number of them is quite large—that these also be added to the record of this investigation.

The CHAIRMAN. They are all accessible on the record, are they?

Mr. FOSTER. They are all in print.

Mr. KENNEDY. In that case, Mr. Chairman, we have affidavits bearing on Alfred A. Green's conduct—General Slaughter's subagent in

trying to suborn witnesses—that we offered the other day, and we will want those also on the record.

Mr. FOSTER. They have never been printed or submitted either to the Secretary of State or either branch of Congress. The chairman will understand that I do not make this application except——

Mr. DOLPH. You wish to take advantage of the ruling of the committee if it admits this affidavit?

Mr. FOSTER. Yes; we understood it was not proper to admit such affidavits.

The CHAIRMAN. If we are going into the trial of this question upon *ex parte* affidavits, of course we must throw the door open.

Mr. FOSTER. We want the benefit of that kind of testimony if it is to be accepted.

Mr. KENNEDY. The only ground upon which we think that this affidavit is admissible is that it was filed with the Committee on Foreign Relations and has disappeared from the files.

Mr. DOLPH. Suppose the original were here, would that be competent?

Mr. KENNEDY. Yes, sir; I think it would, under the ruling of the committee made early in the investigation, that all papers that had been printed officially in La Abra case, or that had been submitted to the committees, should be considered as being in evidence.

The CHAIRMAN. Not in evidence, Mr. Kennedy. That has been corrected time and time again. This committee will state definitely, in order to prevent any misunderstanding about it at all, that the record of the State Department put in here is not evidence. It is——

Mr. DOLPH. It is just as to one thing, as to what Mexico claims.

The CHAIRMAN. That is all.

The committee adjourned.

INDEX.

TESTIMONY.

| | Page. |
|---------------------------|-----------------------------------|
| Baldwin, James G | 745 |
| Dahlgren, Charles B | 643, 659, 688 |
| Elder, A. B | 546, 553, 561, 592, 630 |
| Ely, Sumner Stow | 939 |
| Fisher, Thomas | 878 |
| Garth, David J | 111, 127, 145, 171, 224, 824, 826 |
| Hermosillo, Ramon | 543 |
| Kittelle, George W | 766 |
| Lines, Robert B | 922 |
| De Lagnel, Julius A | 6, 10, 25, 39, 74 |
| Sisson, Isaac | 788, 825 |
| Slaughter, James E | 911 |
| Somero, Engenio | 532 |
| Torres, Francisco | 502 |
| Tuttle, William P | 22 |

LETTERS.

| | |
|-----------------------------|----------|
| Bartholow, T. J | 236 |
| De Lagnel, J. A | 260 |
| Exall, Chas. H | 302, 332 |
| Garth, D. J | 318 |
| Gillespie, Alex. S | 687 |
| Shellabarger & Wilson | 2,722 |

RECORD.

| | |
|---|-----|
| Of case of La Abra Silver Mining Company vs. The Republic of Mexico, before the American-Mexican Claims Commission | 327 |
| Index to record | 500 |
| List of assignments | 935 |

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1889.—Ordered to be printed.

Mr. BROWN, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany bill S. 2632.]

VIEWS OF THE MINORITY.

[The references in this report to the Appendix, which is printed with the majority report, are to the top paging.]

Under a resolution of the Senate, passed August 30, 1888, a subcommittee of the Committee on Foreign Relations has been engaged in taking testimony respecting the claim of La Abra Silver Mining Company against the Government of Mexico until the closing days of the Fiftieth Congress. The last witness was examined in the afternoon of the 27th of February, and his testimony, comprising the last thirty-two pages of the record of the subcommittee's proceedings, was not printed until the 2d of March. The report of the majority of the committee was submitted to the Senate on the 1st of March, with the testimony, which was ordered to be printed as an appendix, and leave was granted for the printing of the views of the minority. (Congressional Record, March 2, 1889, p. 2753.)

The appendix, containing nearly a thousand printed pages, comprises not only the oral examination of witnesses who have testified in the course of this investigation, but also a transcript of the alleged original press-copy book kept at the office of the Abra Silver Mining Company, at its mines in Mexico (pp. 236-318); certain original letters of David J. Garth, treasurer of the said company, addressed to Charles H. Exall, superintendent at the mines, in the year 1867 (pp. 318-322); certain original letters of the said C. H. Exall, addressed to James Granger in the spring and summer of 1868 (pp. 322-326); the memorial and evidence submitted by the said La Abra Company to the United States and Mexican Claims Commission, comprising the certificate of incorporation of the said company, the titles to its various mines in Mexico, and the depositions submitted in support of its claim, together with the depositions submitted in opposition by the Mexican Government to the said Commission (pp. 328-499). The testimony of witnesses who have been examined orally by the subcommittee comprises the first two hundred and thirty-five pages of the appendix, and also extends from page 502 to page 971.

The Mexican Government was represented in the investigation by its counsel, the Hon. John W. Foster, late United States minister to Mexico, and Mr. Robert B. Lines, formerly of the Department of State. La Abra

Company, by its counsel, filed a protest with the subcommittee against the proposed proceedings, which will be found on pages 2 and 3 of the appendix, closing with the statement that "their presence at and their participation in the investigation is only resorted to because of their respect for the Senate." The grounds on which the Mexican Government participated in the investigation were stated by Mr. Foster as follows:

Mexico's interest in this investigation is this: She recognizes that this is a domestic investigation by Congress, but she has proof of fraud and perjury, alleging that this award was obtained by fraud and perjury. Upon the invitation of the committee we are present this morning to sustain, as far as we can, that allegation by our presence, and, if possible, maintain the position which Mexico has assumed on this question, so that you may have the benefit of whatever information or assistance we can give you in establishing that claim of fraud and perjury. I think that is a sufficient answer to the gentleman as to our position here to-day. We do, upon the invitation of the committee and with the consent of the State Department, appear here to represent Mexico in this investigation. (Appendix, page 4.)

At the same sitting the chairman said:

The investigation which the subcommittee is conducting under the order of the Senate and the order of the full Committee of Foreign Relations is one simply of examination to ascertain, as I understand, whether or not it is the duty of Congress to order this money to be paid over to La Abra Silver Mining Company, or make some other disposition of it, or have some investigation in a court of a more formal character than this can possibly be upon the real character of this award, whether it was obtained by fraud or perjury or whether it was obtained upon reliable testimony. * * *

Our present intention is to take testimony and lay before the full committee what we arrive at, and probably express our opinion upon its general merits when we come before the committee. (*Ibid.*, p. 5.)

The purpose of the investigation—the question to be considered by the committee and Congress—is thus expressed in the majority report (p. 2):

Whether the evidence presented by the Mexican Government to show that the award made by said commission in respect of the claim of La Abra Company was procured by fraud, and (whether) the testimony taken by the committee, under the authority of resolutions of the Senate herein referred to, is of such a character as to require investigation by a competent tribunal to determine whether the United States in presenting the claim of La Abra Company to the Mixed Commission was not made the victim of fraudulent imposition.

Under the aforesaid resolutions of the Senate, an opportunity has been granted to the Mexican Government, at the expense of the Government of the United States, to impeach or surcharge the award which was rendered in favor of La Abra Company by Sir Edward Thornton, as umpire of the United States and Mexican Claims Commission, on the 27th of December, 1875. This gives great importance to the new testimony which has been taken, and requires that it should be carefully and impartially examined.

Before considering whether the aforesaid investigation has so impeached the award as to justify any attempt to set it aside, and waiving for the present the question whether Congress can properly interfere in such a matter, as proposed by the aforesaid bill (S. 2632), the undersigned desires to state certain propositions which he thinks are not disputed:

(1) The integrity of the Commissioners, or of the umpire, appointed under the treaty of July 4, 1868, to decide upon the claims of citizens of the United States against Mexico and of citizens of Mexico against the United States, and who made the award in favor of La Abra Company, is not and has never been questioned.

(2) The Governments and the individuals concerned had ample time in which to present their evidence to the Commission. The existence

of the Commission was extended by various conventions until November 20, 1876. The first depositions in support of the claim of La Abra Company were taken late in the year 1869 or early in 1870, and filed with the memorial or petition in the summer of that year, and the taking and filing of depositions continued on the part of the said company until the spring of 1874. Some of these depositions were in rebuttal of the evidence which had been taken on behalf of the Mexican Government in 1870 and subsequently, and which had been submitted by the Mexican agent to the Commission in October, 1873. As has been noted, the award of the umpire in this case was not made until the 27th of December, 1875. There is no complaint on the part of Mexico of surprise or want of notice or lack of time in conducting its defense. Upon these points Mr. Evarts, while Secretary of State, expressed his conclusions to the President as follows:

I am of opinion that as between the United States and Mexico the latter Government has no right to complain of the conduct of these claims before the tribunal of commissioners and umpire provided by the convention, or of the judgments given thereupon, so far as the integrity of the tribunal is concerned, the regularity of the proceedings, the full opportunity, in time and after notice, to meet the case of the respective claimants, and the free and deliberate choice exercised by Mexico as to the methods, the measure, and the means of the defense against the same. (Mr. Evarts to the President, August 13, 1879.)

(3) It is admitted that La Abra Company, composed of citizens of the United States, and organized under the laws of the State of New York in the year 1865, purchased mines in Mexico, to wit: "La Abra," "La Luz," "Rosario," "Arrayan," "Ynocentes," "La Talpa," and "El Sauz," near Tayoltita, for \$72,000, and thereafter built extensive and expensive works for carrying on its business of mining, and conducted its operations at Tayoltita, in the mineral district of San Dimas and State of Durango, from the fall of 1865 to the spring of 1868. This is not a case in which it is claimed, as in the famous Gardiner case, that the property for the value of which an award was rendered had no existence in fact. The Mexican Government does claim that the umpire set too great a value upon the ore which was left on the company's "patios" when its mines were abandoned, and does deny that the company was forced to abandon its property in Mexico by the unlawful acts or omissions of the Mexican authorities or people.

(4) The question of the value of the company's property, and the question whether the company was compelled to abandon that property by the unlawful interference of the Mexican authorities or their failure to protect the company against unlawful acts of the Mexican people, were the main questions at issue before the Commission, and it was to these two questions that the great bulk of the testimony on both sides was directed. There was no misunderstanding or misconception of the issues involved in this international trial, and, as previously observed, it extended over five years, and a mass of evidence was presented on the part of each Government in this particular case.

(5) All of the testimony submitted to the Commission by the Mexican Government was taken in Mexico, the witnesses were Mexicans, the officer who directed the proceedings to obtain the defensive depositions for the Mexican Government was a Mexican, and the magistrates before whom these witnesses were examined were Mexicans.

Much of the testimony on behalf of the company was taken in Mexico; a considerable number of the company's witnesses were citizens of Mexico, and were, when they were examined, and, so far as they are still alive, are within the jurisdiction of the Mexican Government. These wit-

nesses and their testimony were assailed by the Mexican commissioner, Zamacona, in his opinion upon the claim, and by the Mexican agent, Avila, in his motion before the umpire for a new hearing, but not one of these witnesses was ever prosecuted by the Mexican Government for perjury, or any proceedings taken, so far as appears, in that direction, notwithstanding the timely and pertinent suggestion which was made by the umpire in his opinion denying the Mexican Government's motion to open the award.

The Mexican agent [said Sir Edward Thornton] would wish the umpire to believe that all witnesses for the claimant have perjured themselves, whilst all those for the defense are to be implicitly believed. Unless there had been *proof of perjury*, the umpire would not have been justified in refusing evidence to the witness on the one side or the other, and could only weigh the evidence on each side, and decide to the best of his judgment in whose favor it inclined. If perjury can *still* be proved by *further* evidence, the umpire apprehends that *there are courts of justice* in both countries by which *perjurers can be tried and convicted*, and he doubts whether the Government of either would insist upon the payment of claims shown to be founded upon perjury.

More will be said on this point hereafter, when we come to consider the course which was adopted by the Mexican Government, upon the adjournment of the Commission, in endeavoring to subvert the award, as disclosed by the new testimony taken by the subcommittee and printed in the appendix to the committee's report.

(6) La Abra Company was not organized or conducted as a speculation for the sale of its stock, but as a bona-fide mining enterprise. Its "promoters" took shares at par to the amount of \$157,000 in gold, costing \$235,000 in currency, and subsequently made loans to the company to pay the drafts of its superintendent in Mexico, amounting to about \$70,000 more. Not a dollar was borrowed by the company, except from its own shareholders, and not a share of stock was offered in the market by the company for sale. The company purchased the mines through Messrs. Bartholow and Garth, who transferred the titles to the company without a dollar of profit, and afterwards took stock, for which they paid par in gold, and, later on, lent the company money when its expenses proved so much larger than had been expected. (Appendix, pp. 475, 476; foot of page 105; also, p. 115.)

The usual plan of issuing shares to the vendor for the property to an amount from ten to one hundred times greater than the real purchase price, and taking back the bulk of the shares to be divided between the treasury and the "promoters" was not followed in this case. On this point the umpire said, in rendering his award:

He is also of opinion that the enterprise upon which the claimants entered, of purchasing, denouncing, and working certain mines in the State of Durango, in Mexico, was a *serious and honest business transaction on their part*, and that there was *nothing rash, deceitful or fraudulent in it*, but that it was engaged in with the *sole intention of carrying out legitimate mining operations*.

The Company's Claim was Supported by Depositions submitted to the Joint Commission on the part of the Mexican Government.

The undersigned now proposes to state briefly certain material facts supporting the company's claim, which were proved before the Commission by *witnesses whose depositions were taken and filed with the Joint Commission on behalf of the Mexican Government*:

(1) As to the purchase of the mines by the company; the price paid for them; the previous profitable working of the said mines by their former Mexican owners; the buildings and machinery erected by the company at Tayoltita, and their cost.

(2) The unlawful interference of local magistrates with the operations of the company; the unlawful imprisonment of the company's superintendent, Charles H. Exall; and the failure of the authorities to enforce the laws and afford the company proper and necessary protection.

As to the expenditures of the company for the mines and machinery.

D. Juan Castillo de Valle, who was examined at Durango on behalf of the Mexican Government, September 24, 1872, testified (Appendix, p. 445):

That although he does not recollect the names of all the owners, he remembers that those of Thomas F. Bartholow and David J. Garth were among the principal ones. * * * That he received as the price of the "Lüz," "Rosario," "Cristo," "Ynocentes," and "Arayan" mines, with the hacienda, for beneficiating ores, situated in the mining district of Tayoltita, called "San Nicolas," the sum of \$50,000, and that the Americans, as expressed in the interrogatory, added these mines to the Abra company or enterprise.

James Granger, a British subject, who had been book-keeper and clerk for the company at Tayoltita, four of whose depositions were taken at different times and submitted to the joint commission by the Mexican Government, testified at San Dimas, October 6, 1871, before Judge Quiroz (*ibid.*, p. 425):

That he supposes it to be true that the company has spent \$303,000 in the purchase of their mines and machinery, and in working the same. * * * That in answer to the question whether or not the mines and buildings erected by the company were likely to have cost a million dollars, he said that they probably cost \$303,000, counting all the labor expended on them, as they themselves say in their memorial.

N. A. Sloan, a citizen of the United States, a resident in the mining district of San Dimas, who had also been in the employment of the company, testified on the 9th of October, 1871, at that place, before the same judge (*ibid.*, p. 426):

That it is true that they brought with them mechanics and set up machinery * * * That in response to the question, as to whether this company spent in the purchase and working of their property the sum of \$303,000, and whether from the result of this expenditure they were taking out a million dollars annually profit, he answered that at the time he was a clerk for the company, he saw, according to the statement of the superintendent, that they had expended \$303,000, and had taken out a little less than \$6,000 in silver.

As to the products of the mines anterior to their purchase by the company.

It will be noticed that the proof of the previous profitable working of the mines afforded by witnesses who were examined on behalf of the Mexican Government does not confirm the statement, or, rather, the intimation, contained in the report of the majority of the committee that the company was deceived and imposed upon by the Mexican vendors of the property, and acquired nothing that was worth preserving. The committee say, on page 10 of the majority report:

At the mines the representatives of the syndicate were shown very rich specimens of ores, assaying as high as \$1,300 per ton, and as a result of their investigation they made a purchase on the spot of La Abra mine, paying for the same \$22,000 in stock of the company. They also bought of a Spaniard and a Mexican a number of other mines at the same place, and paid for them \$50,000 in gold. These mines were represented to be at that time producing very rich ores, and the syndicate were shown by the owners "stacks of silver, * * * some tons of pure silver," the supposed recent product of these latter mines.

Without meaning to say that the products of these mines were in no wise exaggerated by their Mexican vendors, the undersigned submits

that the following statements, *put in evidence by the Mexican Government*, show that the property purchased by the company was of substantial value for the purposes of mining. Patricio Camacho testified (Appendix, p. 413):

That he has been acquainted with the mining district of Tayoltita since his infancy; that before the mines which have been named over to him became the property of the Americans, they were owned by D. Juan Castillo de Valle and D. Ygnacio Manjarrez, to whom they were productive of *some profits*, but to what amount he does not know. * * * That the American company directed their attention to the Rosario mine on account of what it yielded to its former owners, Castillo and Manjarrez.

Bartolo Rodriguez, who had been in the employ of the company, testified (*ibid.*, p. 414):

That he has known the mineral of Tayoltita for fifteen years; that the owners were D. Juan Castillo and D. Ygnacio Manjarrez, who worked the mines that have been mentioned to him *with profit*, and that these afterwards sold them to the American Company. * * * That it is true that the American company gave their attention to the Rosario mine on account of knowing the *yield of silver that D. Juan Castillo was obtaining therefrom*.

Ramon Aguirre testified (*ibid.*, p. 415):

That it is more than fifteen years since he became acquainted with the mineral district of Tayoltita; and that he knows the owners of the mines that have been named over to him to have been Juan Castillo de Valle and D. Ygnacio Manjarrez, who afterward, with the hacienda and everything connected therewith, sold the same to the Americans; that said mines were *productive of profit* to said Castillo and Manjarrez, but to what extent he can not say, as he is not informed. * * * That the American company gave the most of their attention to the working of the Rosario mine because *they were aware of the amount of silver extracted therefrom by Messrs. Juan Castillo and D. Ygnacio Manjarrez*.

Aquilino Calderon, who also had been in the employ of the company, testified (p. 416):

That he has been acquainted with the mineral districts of Tayoltita for several years; that D. Juan Castillo and Ygnacio Manjarrez were the owners of the mines which have been named over to him, who sold the mines and haciendas to the Americans in the year 1865; that when Messrs. Castillo and Manjarrez were working the mines he was aware that they produced *good profits*.

Refugio Fonseca testified also to "good profits" (*ibid.*, p. 416), and one of the former owners, Ygnacio Manjarrez, deposed as follows (*ibid.*, p. 417):

That he has been acquainted with the mineral district of Tayoltita for fifteen years; that in the year 1854 he and his partner, D. Juan Castillo de Valle, became the owners of the first-mentioned of the mines that have been named over to him, and that *during all the time that said mines were worked by them they produced good profits up to the year 1865*; that they sold the mines and haciendas to an American company called the "Abra."

Francisco Torres, one of three witnesses brought up from Mexico by the Mexican Government, testified before the subcommittee on January 24, 1889, that he worked as a refiner for Castillo del Valle about a year before the sale of his mines to the company. On his direct examination Torres testified that the Rosario mine was full of water while he was working for del Valle—more than a year before the sale—and that all the others were in a bad condition, except La Luz, which was in operation (*ibid.*, p. 505); also that the result of his "beneficiating" was "very good," but that he could not tell what was the quantity of ore out of which this result was obtained (*ibid.*, p. 506). On his cross-examination he testified that when he was working for del Valle "he saw ore proceeding from different mines to be beneficiated in some other part of the hacienda" (*ibid.*, p. 521), and that "he thought that most of the material on which he worked came from Rosario" (*ibid.*, p. 524).

He also testified that the bricks of silver refined by him weighed from 6 to 10 pounds each; that sometimes a brick was the result of one day's work and sometimes two days' work, but that he did not refine every day, and that sometimes there were intervals of three or four weeks; he came and went between his home and del Valle's hacienda, but was more in the hacienda than at home (*ibid.*, p. 522-524). This same witness testified that La Abra mine had been "worked for the last four or five years by Don Ignacio Manjarres, who had put in \$50,000 or \$60,000, and lost all without taking out any metal at all." But it appeared subsequently that the question of profit or loss was still open—that Manjarres was tunneling La Abra mine upon an extensive plan and was not extracting ore (*ibid.*, p. 514).

The high opinion that Manjarres seems still to entertain of the value of at least one of the mines formerly belonging to the Abra Company, and the fact that during the last seven or eight years he has spent from \$50,000 to \$60,000 in tunneling that particular mine so as to reach the veins below the old workings, were brought out in the examination of Eugenio Somera, another of the three witnesses who came up from San Dimas and were examined on behalf of the Mexican Government before the subcommittee, last January, through an interpreter (*ibid.*, p. 539):

Q. Ask him when he was last in La Abra mine.—A. Last month; the time he left there.

Q. Ask him to describe the tunnel that he has testified was in progress of construction in that mine.—A. They are making a tunnel in the direction from west to east, following the vein. There are already made about 200 meters. He explains that the tunnel runs about 200 meters in that direction, and there are branches to the left and to the right of about the same length.

Q. Ask him whether all of this tunnel is on La Abra mine property.—A. All.

Q. What has been the expense of tunneling operations up to date?—A. He does not know exactly, but he thinks it not less than \$50,000 or \$60,000.

Q. Ask him whether the proprietor, if it is the proprietor that is making the tunnel, has been taking out any ore for beneficiation.—A. Not even an ounce.

The same witness testified to the experience and reputation of Ygnacio Manjarres in mining, as follows:

Q. Ask him what experience in mining Manjarres has had.

The INTERPRETER. He asks to what time you refer.

Mr. KENNEDY. I mean in his whole life.

A. He says he is a practical miner.

Q. Ask him how old Manjarres is.—A. Seventy years.

Q. Ask him if he is living now.—A. He is living, and a strong working man.

Q. Ask him if there is anybody in the San Dimas district better informed in regard to the past history and present condition of the Tayoltita mines than this man Manjarres.—A. No.

Another witness, produced by the Mexican Government and examined at the same time, named Ramon Hermosillo, testified that he knew Manjarres and thought him "a man of great experience."

Testimony of witnesses for the Mexican Government as to the unlawful interference of the local authorities with the operations of the company at the mines.

In his first deposition for the Mexican Government, taken at San Dimas, August 23, 1871, before Judge Quiroz, the aforesaid James Granger testified as follows (*ibid.*, p. 418):

Being interrogated as to whether it is public and notorious that the American company of the "Abra," as well as the other companies that have worked mines in this mineral district, have carried on their operations without having been troubled by any disturbances whatever on the part of the populace or military, and whether American

citizens are now working the Candalaria and Bolaños mines without being interrupted by any one in their labors, and without having any reason to complain of said authorities, and whether, on the contrary, if they do not have all the protection that these authorities can give them, the same as any other enterprise under Mexican management?

He answered and said: That in regard to what is contained in this interrogatory, he knows that *the principal civil authority*, D. Marcos Mora, when he occupied that position in this district, *molested the Abra Company by meddling with them in regard to the manner of working* which they had adopted, and that when D. Nicanor Perez was judge in Tayoltita, he *arrested, without having any reason, the superintendent*, Mr. Exall; that in 1866, according to a letter which he saw from the military commander, Jesus Valdespino, this person asked \$1,200 from the Abra Company, but that he does not know whether the company paid it or not.

The same witness in his second deposition for the Mexican Government testified (*ibid.*, p. 425):

That he does not know *what acts of violence* were committed against the employés of the company or against their interests; that in answer to the question as to whether he knows that the Mexicans took some lots of mules loaded with provisions, and appropriated the same to their own use, he responded that he heard it said that during the revolution between the French and Mexicans, some mules, loaded, had been lost, but that this was before the deponent came to Tayoltita.

Compare the earlier deposition of this same witness on behalf of the company in regard to the hostility, annoyances, and interferences on the part of the local authorities (*ibid.*, pp. 352-357).

Guadalupe Soto, who was local judge at Tayoltita while the company was engaged in mining at that place, was examined on behalf of the Mexican Government at San Dimas, July 24, 1872, before Judge Quiroz, and testified as follows (*ibid.*, p. 435):

Q. When you were judge in Tayoltita, in 1867, did you direct and issue the communications dated, respectively, the 5th and 4th of July, copies of which have been shown to you, and which appear on page 6 of these proceedings?—He replied that *he is certain of having issued such communications to the administrator of the "Abra" establishment*, and that he did so because there had been *a rising of the people to compel him to*. * * * On this deposition being read to him, he added that the communications which he issued were in consequence of the fact that *besides the disturbance on the part of the people*, he had received *orders to that effect from the political chief*, Marcos Mora; all in consequence of the failure of the superintendent to contract with the operatives for working the mines; he affirmed and ratified all the preceding statements.

These orders will be hereafter considered.

Testimony of witnesses for the Mexican Government as to the arrest and imprisonment of O. H. Exall, the company's superintendent at the mines.

Refugio Fonseca, examined on behalf of the Mexican Government by Judge Quiroz, at San Dimas, July 22, 1872 (*ibid.*, p. 434), testified that Exall, superintendent of the company's mines, was arrested and imprisoned for three days by Judge Nicanor Perez, and that he did not know whether the said Exall had made any application to the authorities of the State.

N. A. Sloan, whose deposition was taken before Judge Quiroz at San Dimas, in behalf of the Mexican Government, on the 9th of October, 1871, testified (*ibid.*, p. 426):

That the superintendent had been imprisoned *without knowing for what*; he said that he knew he had been *a prisoner in the jail*, and that he understood that his imprisonment was because, or, rather, according to what he saw of the affair, it was because the judge went into the hacienda to speak to one of the peons who was at work there, and the superintendent thereupon put him out, from which it resulted that the said judge immediately went to his house and ordered the superintendent to be called before him, *when he sent him to prison*.

The aforesaid James Granger, in the third of his depositions for the Mexican Government, testified to the arrest and imprisonment of the superintendent as follows (*ibid.*, pp. 434, 435):

Being asked what he knew about the imprisonment of the superintendent of the mining establishment of Tayoltita, what was his name, how long he was imprisoned, by what judge, and what was the result of the application which the latter made to the authorities of the State, he replied that he was a witness to the arrest, and that his name was Charles H. Exall; that he was imprisoned for two or three days because he re-proved Judge Nicanor Perez for having removed from one room to another in the establishment of the company, and he knew that the superintendent had complained to the governor of Durango, but that he does not know with what result.

It will be interesting and suggestive to compare the accounts of Exall's arrest and imprisonment given by Granger in his depositions on behalf of the Mexican Government with his account of the same occurrence in his earlier deposition on behalf of the company; but before quoting from these, it may be proper to quote what is said on this subject in the majority report of the committee (p. 12):

One of the specific acts alleged to establish the charge of hostility on the part of the Mexican authorities is the imprisonment of the superintendent, Exall. In his deposition before the commission Exall states that he was arrested by the local judge; that without any form of trial or knowledge of his offense he was sentenced to two months' imprisonment, fined \$50, and thrust into prison.

In a letter which Exall wrote to the prefect at San Dimas, the official superior of the local judge, a copy of which is found in the letter-book, all the details as to the causes of the arrest are set forth. His own account as there given contradicts his deposition, and shows that his detention must have been of a trivial character. The evidence does not show that he was actually imprisoned. It was an arrest under which he was detained for an hour or so, and was not of sufficient consequence to be mentioned in his correspondence with the New York office, and does not appear to have interfered with his duties as superintendent.

An examination of Exall's letter to the prefect at San Dimas, written from Tayoltita, January 7, 1868 (about two months before the abandonment of the mines), shows that Exall was still under arrest when he made this appeal for protection. The letter was written on the same day that the arrest was made. In this letter, after detailing the circumstances minutely, Exall says:

I asked if he intended putting me in jail please to do so, as I had a headache, and wished to lie down. He then gave me permission to go to the hacienda, but to consider myself still his prisoner, and (to be) at his house whenever ordered. * * * But for being a prisoner I would come and see you in reference to the matter, but unfortunately necessity compels me to write. (Appendix, pp. 316, 317.)

It is evident that this letter was not intended to describe, and could not possibly have described, the duration of the imprisonment. The letter was an appeal for release from illegal detention then existing, and which had already lasted more than "an hour or so." Exall was evidently anxious, and with good reason, to find out how much longer he was likely to be kept in duress. When the isolation of that mining district is considered, and the inflammable character of the population, the circumstances attending the superintendent's arrest are worthy of the careful attention of Senators who may have to act in this case. The deed was evidently done to humiliate the superintendent publicly and to magnify the local magistrate's power. This appears from the following passage of Exall's letter, referring to the judge who had made the arrest:

He had collected around his house a number of men, and in the house preparations had been made as if resistance was expected and force might be required. * * * I asked him if he had gotten through with me, as I desired to return to the hacienda. He replied, yes, he had finished. Mr. Sloane and I then left and bid him good-by. As we reached the corridor he said he never wanted to see me in his house except on

official business. To this I replied, "Very well, sir," and turned to leave. He called me back, saying not to go; if I did he would send a force after me, and they would shoot, and insisted on my returning to the house. I did so, without any remark. He then said I was his prisoner. I then requested to know what was to be done. He said *he would put me in jail until he could receive instructions from San Dimas. I remained passive, and he then gave full license to his tongue, abusing me in the most violent language.* (Appendix, p. 316.)

The effect of such an exhibition of arbitrary power as this among such a population can readily be imagined. What happened afterwards appears from the testimony; and the first thing to be noted is that *the prefect did not interfere on Exall's behalf.* Just how long he was imprisoned seems to be a matter of some doubt. The Mexican commissioner Zamacona, in his opinion upon La Abra claim, says that "it is proved by the statements of four unimpeachable witnesses" that Superintendent Exall's imprisonment "only lasted four days." (Ex. Doc. No. 103, H. R., Forty-eighth Congress, first session, p. 40.)

What happened after his fruitless appeal to the prefect is thus related by James Granger in his deposition for the company, made at Mazatlan before the United States commercial agent May 14, 1870 (Appendix, p. 354):

In the month of December, 1867, or January, 1868, the superintendent, Charles H. Exall, was arrested and imprisoned by the "juez conciliador" of Tayoltita, Nicanor Perez, on a mere pretext, without any reasonable cause whatever. The particulars are as follows: Mr. Exall was occupied in a private room, and in private conversation, and while so engaged, said juez, or judge, Perez, entered the store at the hacienda, and without speaking or asking permission, he passed into a private store-room adjoining, and Mr. Exall observing this, stepped to the door of said store-room, and in a polite manner addressed said Perez, saying that no one was allowed to enter said store-rooms without license, and if he had any business to please communicate the same to him. Said Perez came out of said store-room in a great rage, and asked Mr. Exall if he thought he, Perez, was a thief, or wanted to steal anything. Mr. Exall denied any such idea, and stated that, in requesting him to leave the private store-room he was merely carrying out the general rules of the company.

Said Perez would listen to no explanations, and when he went out remarked that he, Exall, should hear from him. About half an hour after, an order came to the hacienda for Mr. Exall to attend, forthwith, before the said juez, or judge, Perez, which order Mr. Exall obeyed, and upon entering said court-room said Judge Perez commenced a *tirade of the most infamous personal abuse of said Exall*, without allowing explanation or justification, *sentenced said Exall to pay a fine of, I think, about fifty dollars, and imprisonment for two months.*

Exall was confined in the hacienda until the next morning, when he was sent for by said "juez," who did *look up said Exall in an old empty house*, with the declared intention of sending him to San Dimas to complete his sentence. Said judge remarked, at the same time, that he could not permit Exall to ride even his own mule to San Dimas; that he should treat him the same as he would treat any common prisoner.

When I went to visit said Exall in his prison, the next morning, I found him busily engaged in killing fleas that were troubling him. *It was a filthy place.* By personal influences I brought to bear, and by securing the payment of the fine imposed upon him, I managed to get Mr. Exall released. *All the above I witnessed myself.*

A few weeks after this occurrence, on a Saturday, the superintendent, Exall, received from said Judge Perez an order directing him to attend at his "juez-gado" (court-room), and the same evening, at seven (7) o'clock, Mr. Exall, in obedience to said order, went to the court-room, where *he found assembled a large number of the employees of La Abra Company's mines, and others, and in their presence the said judge proceeded to lecture said Exall upon the manner in which the business of said company should be carried on, and he threatened that if the superintendent or company did not work in the mode and manner to please the authorities they should be deprived of their property, and forced to flee the country; all of which was said in my hearing, and although I have only stated a few circumstances that came under my direct observation, showing the animus of the authorities and people of this district, these are not by any means to be taken as all that took place, nor even as the most vexatious. It was the daily, and almost hourly annoyances and interruptions. Every pretext that could, by any means, be made the basis of a suit or exaction was availed of.*

Exall's own account of his arrest and imprisonment as given in his deposition on behalf of the company, before Mr. Justice Barnard of the

supreme court of New York, December 2, 1869, is as follows (*ibid.*, p. 337):

The civil officers of the legitimate Government of Mexico under President Juarez also harassed and annoyed us, and interfered with the continuing of the mining operations of said company. I was arrested by the order of the local magistrate or judge of Tayoltita, whose official title, as I understood, was "Juez," and thrust into prison and sentenced by him to a fine of fifty dollars, and imprisonment for two months. I had no trial, nor even an examination, except by him personally, and do not know for what I was arrested or imprisoned; but I here state positively that I had not committed any act, crime, or offence against the laws or people of Mexico, or any citizen or soldier of the same, nor against any of the authorities, local or national. I was released through the personal influence of a Mr. Granger, who had to promise payment of the said fine; no good reason ever having been given me for my arrest or release. *I had frequently applied to the proper military and civil authorities of Mexico, both in Sinaloa and Durango, for redress and protection against the violence stated, but was rudely denied by both in every case, and could get neither; and these threatened acts, and the acts of violence, were encouraged and connived at by said authorities, if not actually instigated by them, which last I believe to be the fact also. By reason of these facts it was very difficult to keep men there at work, and the prosecution of the work was greatly hindered and delayed, and it finally became utterly impossible to continue the mining operations of the company; and I was compelled, with my men, to give up the same entirely, and to abandon the mines and all the mining implements and property of the company, to save our lives.*

It does not appear to the undersigned that there is any conflict whatever, as suggested in the majority report, between the letter which Exall wrote on the day he was arrested, to the prefect, at San Dimas, and the foregoing account extracted from his deposition. Nor will it be now contended by members of the committee, in view of the statement of the Mexican commissioner, Zamacona, and the testimony of Mexican witnesses, that "the evidence does not show that he (Exall) was *actually imprisoned*," or that the detention was "of a *trivial character*"—only "*an hour or so*"—and "*not of sufficient consequence* to be mentioned in his correspondence with the New York office."

If the letter-press copy-book contains all his correspondence with the New York office, Exall only wrote one letter, as superintendent, after his release from confinement at Tayoltita, and that was written to Mr. Garth on the 24th of January, 1868, at Mazatlan. There may have been a reason why Exall did not allude to his imprisonment in that letter, but the reason was not the one suggested in the majority report of the committee, if an affidavit which Exall made shortly before his death (Appendix pp. 943-945), and to which the majority report makes no allusion whatever, is to be credited. That affidavit undertakes to explain certain discrepancies between some of his later letters as superintendent and the depositions which he subsequently made in support of the company's claim before the joint commission. This *ante-mortem* affidavit of his will be further considered hereafter, in connection with his letters as they appear in the company's letter-press copy-book.

Before leaving the subject of his arrest and imprisonment, it may be well to add an account of the affair given by another eye-witness—John P. Cryder—in a deposition on behalf of the company (*ibid.*, pp. 374, 375):

I was, myself, a witness to an outrage upon the superintendent of that company, Mr. Charles H. Exall, who was, to my own knowledge, improperly and unlawfully arrested and imprisoned by the local judge, or "juez" at Tayoltita. I was present when said arrest was made, and I was also present at the hacienda of said La Abra Company when the cause or excuse was given, which appeared to me like a miserable pretext for said arrest. It was this: Said Superintendent Exall was sitting in his private room at the hacienda, in consultation with some men on private business, when the said "juez" walked into an adjoining private store room, without knocking or being invited in, and Mr. Exall remarked to said "juez" that it was his private

store room, and if he, the "juez," wished to see him on business, he, Exall, would go out and see him, or words to this effect.

These remarks were made in a pleasant and gentlemanly manner, which should have given no offense to any reasonable man, but said "juez" remarked that his dignity was insulted, or something to that effect, and that he would have satisfaction, or that he, Exall, would hear from him; and about half an hour after the occurrence named *I saw an armed guard come with the orders of said judge, or "juez," and arrested Superintendent Exall, and took him before the judge.*

I followed him, and I heard the said local judge, Nicanor Perez, order said Superintendent Exall to be imprisoned in the hacienda that night, with a guard over him; and said judge sent for said Exall the next morning to appear before him, which he did, in charge of a guard, and the moment he entered the court-room I heard the said judge call him, Exall, *very bad names*, and he poured out upon him *the most vile epithets in the Spanish language, abusing him in the most shameful manner*; all of which Mr. Exall seemed to bear without losing his temper; and said judge, after he had exhausted the vocabulary of abusive epithets, as I thought, then turned to said Exall and announced his determination to carry out the sentence of imprisonment for two months in the common jail at San Dimas, and *fifty dollars fine*, but at the same time ordered the guard to compel said Exall to go all the way to San Dimas on foot, and not to allow him even to ride his own mule, saying the judge would learn the Gringos (as Americans are called) to treat him with deference and respect.

He then ordered said Exall to be locked up that night in Tayoltita *in an old uninhabited house that was said to have been occupied by diseased persons*. It did seem to me that nothing was too bad for said judge to say and do against said Exall. The next morning I visited said Exall, in company with an Englishman, whose name was James Granger. This Mr. Granger *not being an American but an Englishman*, had some influence with Judge Perez, although he was in the employ of the company, and he was permitted to call on the prisoner. He invited me to go with him, and I did so; we found Mr. Exall, a gentleman of refinement, busily engaged in the work of defending himself from the attacks of millions of fleas. The house where he was confined *had a most disgusting smell, and was filthy beyond description*.

It was said by the people there that *this old house had been but recently occupied by persons of loathsome diseases, and that the judge knew this fact when he sent Mr. Exall there*.

This seemed to create so much sympathy and feeling at Tayoltita in favor of Mr. Exall, even with those natives and unemployed workmen who were in favor of driving said company away from the country, that Mr. Granger managed, with some influences unknown to me, and by securing the payment of the fine, to get Mr. Exall released from this vile prison house; and I do not know what became of the case after that.

Taking all the testimony on this subject together—what was offered on behalf of the Mexican Government and what was offered by the company in the depositions from which the foregoing extracts have been made—it appears beyond question that the local judge publicly and unlawfully invaded the personal liberty of the company's superintendent and insulted and humbled him—made a spectacle of him—in the presence of the people who worked in the mines, as well as of those who were dissatisfied because he did not employ them, and afterwards imprisoned him for several days in a filthy hut. He did not owe his release from this pest-house to the interference of the local judge's superior, to whom he had appealed in writing, but to the efforts of one of his own subordinates, a British subject, whose relations to the "juez conciliador" of Tayoltita, Gaudalope Soto, appear in the testimony.

It will also have been noticed that the same magistrate Perez, as stated in the foregoing extract from Granger's deposition, made another exhibition of his hostility "a few weeks afterwards" (which would be in February, 1868), and threatened "*in presence of a large number of the employés of La Abra's Company's mines*," that the company "should be deprived of their property and forced to flee the country, if the superintendent or company did not work in the mode and manner to please the authorities."

The interference of the local authorities with the company examined.

In the majority report of the committee it is held that the interference of the local authorities with the working of the company's mines was

in accordance with Mexican law and was exercised with a proper regard for the welfare of the miners. On page 12 the committee say :

The action of the local officials, Mora and Soto, is relied upon by the claimants to establish interference by the authorities in the working of the mines, and their orders to the superintendent were produced before the commission. These orders show upon their face that they were occasioned by an alleged failure of the superintendent to observe his contract with the miners, by which they were to be paid two-thirds of their wages in goods from the company's store and one-third in cash. The failure to make the cash payment led to the interference of the local magistrate, which was authorized by the Mexican mining laws.

The orders of the prefect Mora, at San Dimas, and of the local judge, Soto, at Tayoltita, are printed on page 360 of the appendix. The order issued on the 4th of July, 1867, by Judge Soto is as follows :

Second court—Conciliador, Tayoltita.

To the Superintendent of the Abra Reducing Works :

By the communication of yesterday, dated the 3d, received from the gefe politico of San Dimas, I notify you that if you do not intend to work the Abra mines as they were formerly worked, upon the system of thirds, that you *immediately vacate the mines*, to allow the operatives to work them on their own account, without further loss of time.

Liberty and reform.

Tayoltita, July 4, 1867.

GUADALUPE SOTO.

A later order issued by the prefect was in the following terms :

Gefetura Politico of San Dimas.

To the Representative of the Mines, Tayoltita :

The Gefetura, being informed that you have stopped the mines in that mineral, informs you that this is not the engagement you entered into with me, and that it hence believes that you place no value upon your word. Nevertheless, if you don't choose to continue your work, give the people permission to collect ores in the mines, as *I will not hold myself responsible for the consequences in a town where the people are without work.*

Independence and reform.

SAN DIMAS, July 10, 1867.

These orders have not been defended either by the authorities who made them, or by the Mexican Commissioner Zamacona, in his opinion against the claim of La Abra Company, upon the ground taken by the committee; that is, that they were lawful. As already noticed, Judge Soto, in his deposition on behalf of the Mexican Government, stated that he issued his order because *he was compelled to do so by an uprising of the people*, and because of instructions he had received from his superior officer, the prefect at San Dimas. It would indeed be a strange law that would authorize a justice of the peace to say to a mining company : "You are ordered to arrange your work with the operatives *within two hours*; and if you come to no arrangement, *you will vacate the mines.*"

Nor did the prosecuting attorney at Durango, who conducted the taking of defensive testimony for the Mexican Government, seem to regard these official orders as they have been regarded by the committee. He seems to have been afraid that they would tend "to fix the responsibility for the company's loss upon the Mexican Government," and so, in his instructions to the court of first instance at San Dimas, he said : "It is of great importance that O. Marcus Mora, who was the judicial authority of that district, and Gaudalupe Soto, who was judge at Tayoltita, be examined, in order that they may state whether they have dictated and issued the communications, a copy of which accompanies this" (*ibid.*, p. 429).

Soto was examined, with the result which has been noted. But Mora was never examined, although it is in evidence that he was accessible, doubtless because Soto's examination made it clear that the orders were issued and that further inquiry would only "make bad worse" for the Mexican Government.

The method by which the authorities could legally intervene in case of difficulties between the miners and their employers was stated to the subcommittee by Capt. Charles B. Dalghren, a witness produced on behalf of the Mexican Government, who had been superintendent of the Durango Mining Company at San Dimas from 1870 to 1875. The examination on that subject was as follows (*ibid.*, p. 683):

Q. Suppose a contract existed between a mining company and the miners, that they would pay the miners two-thirds in goods, supplies from the store, and one-third in cash, and the company attempted to pay all in goods or reduced the amount of the cash payment, would the authorities exercise the right to interfere to protect the miners?—A. In case it had been an agreement between the parties?

Q. Yes.—A. The authorities would hold you to the contract.

By Mr. LINES:

Q. In what way; what would be the form of the interference by the authorities?—A. It would be by putting in an interventor, a government official, to see, not to direct your workings of the mine, but that the legal agreement was carried out.

Q. He would supervise the distribution of the proceeds?—A. The distribution of the proceeds, but not the working of the mines.

Q. There would not be any lawsuit about it in the ordinary American sense of the term?—A. There would be certain formalities in the court by which the judge would appoint an interventor. That man would come down to us and present his credentials. The man would have quarters at the hacienda. He would have a right to examine the proceeds of the silver and the books, and see what your debts were, first that the men were paid, and then that the merchants were paid, and the distribution made according to the agreement between the operatives and the mine.

It appears that there never was any such intervention in this case, for the very good reason that La Abra Company never broke any of its contracts with its miners. This is shown by the testimony of another witness produced on behalf of the Mexican Government, Mr. A. B. Elder, who entered the employment of the company in the spring or early summer of 1866 and remained at Tayoltita until the fall of 1867. He was in charge of the company's reducing works when the aforesaid orders were issued. Various questions were put to Mr. Elder on this subject by the chairman of the subcommittee bearing upon some possible justification or excuse for these orders (*ibid.*, pp. 600-604).

By the CHAIRMAN:

Q. Now, Mr. Elder, I will ask you a question. Is it the custom of the Mexican civil authorities, enforced through the alcalde, to take supervision of the relation between mining companies and Mexican operatives in Mexico, so as to see that the operatives are paid what the miners or the mining companies agree to pay them?—A. Yes; they do that.

Q. That is a matter of legal administration in Mexico?—A. Yes, sir.

Q. For the purpose of preserving the miners in their rights as against their employers?—A. Yes, sir.

Q. Now, if you, in Mexico, desired and needed a peon or miner whom you found to be in the employment of another man or another company, I suppose your first inquiry would be how much debt he owes to his employer?—A. Yes, sir.

Q. After getting his consent to go with you in place of remaining with the other person. Then you would assume that debt, under an agreement with the former employer, you and he agreeing upon what would be a fair living to the Mexican while he was in your service, and the surplus over that living while in your service would go to the extinguishment of that debt?—A. Yes, sir.

Q. And so, if you desired to transfer that same man to another person, you would make the same arrangement?—A. Yes, sir.

Q. So that the debt always follows the man along, and is a sort of mortgage lien upon his service after his living, as agreed upon between the employers, is taken out?—A. Yes, sir.

By Mr. KENNEDY :

Q. Do you say that these orders that I have referred to were addressed to Mr. Exall because his miners owed anybody else money?—A. No.

Q. Did you ever examine the Mexican law on that subject?—A. I never did.

By the CHAIRMAN :

Q. Now, suppose the second employer, the one who takes him with a mortgage upon his labor, fails to provide for him that sort of living, is the practice in Mexico for the alcaldes to interfere and compel the second employer to live up to his contract and to provide the man with food, raiment, and whatever it is that he has agreed to furnish to the laborer?—A. I never saw an instance of that kind, where they attempted to make a man furnish it. You remember it is customary for most every mining company to keep supplies such as men use, corn, beans, rice, sugar, tobacco, calicoes, etc., which they take out every Saturday or Sunday before commencing work on Monday, for whatever they have done for the week prior.

By Mr. KENNEDY :

Q. Did you ever hear of any miner that was in the employ of La Abra Company—I mean the workmen to whom the company owed anything—failing to get supplies at the store?—A. No, sir.

Q. How far was the store from the mill?—A. About 300 feet.

By the CHAIRMAN :

Q. Now, before you answer this, I desire to recall your attention to another matter about which you have been speaking. Did you hear of any complaint of La Abra Company's employes in regard to their payment; whether it should be in money or in goods at the store, or in supplies?—A. At one time there was something of a jangle among the men, that the amount of cash had been reduced and a greater percentage of goods was paid. It was not anything that attracted any great attention. I paid very little attention to it, but I heard it talked of.

Q. Do you recollect whether the alcalde there interfered to look into that matter to correct it if it was presented by the operators?—A. It was referred to the alcalde, but it was talked over with the superintendent.

Q. Now, is that a subject which you understood was within the jurisdiction of the alcalde?—A. I have always understood that to be within the jurisdiction of the alcalde.

By Mr. KENNEDY :

Q. Mr. Elder, is not it a matter of contract between the mining superintendent and the men what proportion of their wages shall be paid in supplies and what in money?—A. Yes, sir.

Q. Now, give us your own experience in that matter, when you were a miner at La Puerta, and tell us whether you did not sometimes pay your men all money and at other times part in supplies and at other times a different proportion in supplies and money?—A. Yes, sir; that was very often the case. We sometimes paid them three-fourths money.

Q. And would it not only be when a contract that had been made between the mining superintendent and his men was violated that the justice of the peace would interfere?—A. *That was when the justice interfered; never at other times.*

It appears from the testimony that laborers had flocked to Tayoltita far in excess of the number that could be advantageously employed by that company. These unemployed workmen were a very dangerous element in that sparsely-populated region, and it appears that instead of advising them to go elsewhere, the local judge, who kept a wine-shop, in which the laborers drank and gambled, took sides with them, and insisted that the company *should employ the whole unemployed population*. Although Mr. Elder was a willing witness for the Mexican Government, he indicated the real reason for the orders in question as follows (*ibid.*, p. 565):

Q. Do you know anything of the troubles that occurred between the superintendent of La Abra mines and the authorities about July, 1867; if so, state what you know in regard to it?—A. Yes; they served a notice on the company that they wanted them to *work more men*; that they wanted them to put more work on the various mines.

This is brought out more clearly in a deposition made on behalf of the company by Matias Avalos, a Mexican who had been in its employ as a packer, and for whose honesty, truthfulness, and intelligence Capt. Charles B. Dahlgren, a witness for the Mexican Government before the subcommittee, vouched in the strongest terms. Avalos testified as follows:

At another time—I think in the month of July, 1867, when I was engaged in bringing down from the mines to the hacienda the ore belonging to La Abra Company—I met all the Barreteros, and men employed in and about the mines, going down to the hacienda, and the Barreteros and all the other men stopped and talked with me, and they all said an order had been sent up to the mines by Marcos Mora, gefe politico of that district, to stop work, and ordering them all to Tayoltita. When I came down to the town, in the evening, the gefe was at the house of Guadalupe Soto, and I heard the gefe, Marcos Mora, tell these men, a very large crowd of them, that the company did not work as he, the gefe, wanted them to work, and employ all the men who were out of work at Tayoltita, and that he would not let any of them work if they did not employ all of them, and work all their mines at the same time, as he had directed them to work; and he said at the same time, that he was going to take the mines away from the company, and give them to all of the people, to work them as they pleased; and that night, I remember well, I did not sleep at all, for the words used by the gefe politico to the crowd of miners were well intended, and had the effect, to incite the Mexican miners and men out of employment to riot, and perhaps to something much worse than that, and I expected serious trouble that night for the company. I do not know how the company settled the matter, or how it was that "La Abra Company" staid in the district as long as they did after that affair, for I knew the authorities were determined to get rid of them, from all I could hear whispered about by Mexicans out of employment, who seemed to be in with the gefe and juez in getting the company out. I know these troubles went on from time to time until the spring of the year 1868, when the superintendent, Exell, abandoned all the mines and the hacienda and metals and stamp-mill, and everything they had there, and the company has never been there or done any work in San Dimas district since that time.

Captain Dahlgren's estimate of the character of Avalos will be found in the Appendix, page 667, 711. Avalos made a second deposition on behalf of the company, in which he stated that Quiros, the judge at San Dimas, sent for him to give a deposition before him the previous summer in connection with this case, and notified him that if he did not go to court and give evidence against the Abra Mining Company he would fine him \$100 and otherwise punish him. He further stated that he went to the court, and there found a multitude of natives of the country armed, and some of them threatened him with violence because the judge told them that he had given a deposition in favor of the company and against Mexico; also that the judge wrote a deposition for him to sign, a part of which was not true, and that he supposed that that paper went as his deposition, but he did not consider it as any evidence of his in the case (*ibid.*, p. 400).

New evidence in regard to the justice of the peace at Tayoltita.

A most remarkable disclosure in regard to Guadalupe Soto, local judge at Tayoltita, was made by Colonel De Lagnel, who testified on behalf of the Mexican Government, and was the first witness examined by the subcommittee in the investigation recently closed. Colonel De Lagnel was the second superintendent of the company at the mines, and acted in that capacity at Tayoltita from the spring of 1866 to the spring or early summer of 1867. He gave the following testimony as to Guadalupe Soto, who was "juez conciliador" or justice of the peace at Tayoltita:

So far as the Mexican authorities were concerned, when I came in contact with them, they were civil, and I have no reason to recollect anything that was to be found fault with. As to some of the minor authorities, this man Soto, for instance, I must

say he was a pernicious man, I thought. But I speak with no personal feeling against him for I never did anything else but bow to him when I would meet him. He had the only good house upon the land belonging to the company. I never went into his house, but I understood that he sold mescal and wine to the miners and others. It was in the portico of his house that the balls took place every Saturday night when the miners would come down. They would come down on Saturday night, and Saturday night and Sunday night there would be a regular drunken saturnalia. That would begin on Sunday morning with ball and music, and the miners and women assembled, and then it would degenerate into a saturnalia. The blankets would be spread upon the ground and there would be gambling. The great trouble of the place was the presence of the gamblers who came to fleece these miners every pay day, and another trouble was the sale of liquor. I stopped the sale of liquor at the hacienda, and turned it over to this man Soto.

By Senator BROWN:

Q. What position did he hold?—A. When I first went there I do not know whether he was in office or not, and I am not certain that he held office during my incumbency. But he was a potent factor, I think, in the way of constantly urging others and exciting bad feelings. That was evident in the conduct of the workmen from time to time, and it was traced to him. When I say traced, I mean that I depend on what I heard from others who brought me information. I did not go into his house and held no intercourse with him except simply to bow to him and speak to him when I would meet him.

Q. His course seems to have stirred up prejudice against the company?—A. Yes, sir. He was inimical to the company from the first. The miners were subject to his influence, and they were stirred to a demonstration at one time that I witnessed.

Soto was afterwards justice of the peace at Tayoltita when Exall was superintendent. The "demonstration" to which Colonel De Lagnel alluded was afterwards described by him in his testimony before the subcommittee. It seems that when Colonel De Lagnel first became superintendent the laborers' wages were paid half in money and half in goods at the company's store, but subsequently on account of the reduction of the amount of ready money on hand they agreed to take two-thirds of their pay in goods and one-third in cash. This, of course, left them less for drinking and gambling, and less to spend in Soto's shop. De Lagnel was notified by Sloan that there was going to be trouble the next day when the men assembled, for they understood that the superintendent would not be able to pay them the proportion of the money he had promised them. It was a fact that, owing to the difficulty of communication with Mazatlan, where De Lagnel's drafts on the company were cashed, he was short of ready funds, but the difficulty was only temporary. He gives the following account of what happened:

The next morning when the men assembled for payment I was in the store. It was a beautiful bright day. Ordinarily they came in dressed in white, but I noticed on this day, although the day was beautiful and bright, they had their native Mexican blankets thrown over their left shoulders. That, however, did not cause any question in my mind. While I was engaged in writing the tickets, giving them their debit and credit account, with the signs that are used to express dollars and cents, and the balance due them written out so that there could be no doubt as to the balance due, the young clerk who was in attendance at the store was standing then in front of them and I was sitting back of him, said to me, "Colonel, if you are going to do anything you had better be quick about it." I asked him what he meant. He said that the fellow who was talking was inciting these men to make an attack upon me, and he told them not to wait. The clerk told me that the man was talking about the Candelaria affair, which had taken place before my time there, I believe. They had risen there and killed some officer and sacked the place.

What he was saying, as told me by this clerk, was, that if they only had a little pluck and unanimity among them, and made the attack at once, they could clean out the whole establishment. There was some \$15,000 or \$16,000 of property lying right around them within reach. I told him to keep quiet, and I kept them in view from the table where I was. I then started up from the seat where I was sitting, and that movement they interpreted, I suppose, as an intention on my part to go for the money, because when I made payments I would go to the room where I had the strong box and get the money. I first dispatched Sloan to the superintendent of the company above me and asked him to loan me what ready money he had on hand, so that in case

I found I could do it I could make some explanation. He brought \$125 or \$150. I then went to my room and brought down what little money I had; it did not exceed one hundred and odd dollars, and I also brought down seven six-shooters which I had, with ammunition.

I then called up the workmen and told them to lock up their tools and put them away, and then put on their six-shooters and come up to the old hacienda. Between that and the store where these miners were assembled was a place about 18 feet long, a court, a closed space between the buildings close by and the stone wall. I told them that I might have trouble; that I hoped not, however, but to see that everything was in order, and if they heard any disturbance to come in and shoot them down as fast as they could. These men came up, as I directed, and the Mexicans saw them come in. There was no demonstration on their part, nor did they cross the court. They staid in the wine room as much out of sight as possible. I called the head cleaner, Bartolo Rodriguez, who was the only man I had that I could really trust. * * * He failed me this time in point of courage. That is the only charge I have to make against him. I told him to go out and talk to these men, to tell them the situation; that I had striven to get the money; that their own political difficulties lay in the way. (The French must have been there at that time.) I told him to tell them that I was out of ready money, except a few dollars at the hacienda; that I was willing to pay them altogether their indebtedness in goods and let them go at once, or to pay them two-thirds in goods and give them a due-bill for the balance, or if they chose to let the whole of it stand I would settle it eventually, if they chose to settle their accounts in that way.

I also told him to tell them that I was perfectly well aware of the influences to which they were subjected; that it was the gamblers who wanted their money, and it was the liquor dealer who wanted to sell his liquors to them; that they were persuaded by evil-disposed persons; and that they might feel assured that I would not put myself in their power at that distance from home without support, if I intended to do anything but the right with them. But he was afraid to go to them, and I do not think he did anything at all.

Then one of the men came forward to try and make terms, and endeavored to assure me that these were good people; that they meant no harm; that I must not be frightened, etc. I told him I was not frightened; that my desire was to avoid difficulty; that if we misunderstood each other, I wanted to explain matters; that I would endeavor, as far as possible, to be just and honest with them; that it was my interest to do so; but that if they forced me to extremities, I would deal summarily with them.

He asked me if I had arms and ammunition. I told him I had plenty; that I had plenty of food to stand a siege and plenty of arms to defend myself with. But I said, "I tell you if I commence this work I won't leave one of you alive unless you kill us." I said, "Go back and try to explain to those men what I have told you, and tell them I mean rightly by them."

I then sat down and saw what little money I had and made the distribution. It was very small, but I made the distribution to each, anyhow, and I then called the fellow who was the ring-leader. He came up to the counter, when I called his name for payment, in a sort of surly manner, with his hat on his head. Uniformly the custom was for a man when he came for his pay to take off his hat and say Ave Maria. I do not know what they meant by it, except perhaps that it indicated respect and some deference. But this time his manner was surly and defiant. I told him to take off his hat; he removed it. Then I told him that I intended to pay him in full and that he must quit the place at once. I paid him in full and ordered him to cross the stream to the opposite bank, so as to be off the domain where I supposed I had control, and ordered him never to return under pains and penalties.

Q. Did he obey?—A. He went off, and I never saw him again. I then called up the rest of the men in turn and paid them. I told them what I had done; that I desired to do what was right and to fulfill my engagements with them so far as I could. I told them at the same time if they were not satisfied with the condition of things, as it might occur again, I wanted them to quit the place at once. None of them left me. They all staid. After that I never had any trouble (Appendix, pp. 72, 73).

It is clear from this account that if a man of less coolness and courage than Colonel De Lagnel had been in charge of the company's enterprise at that time its property might have been sacked and its American employés murdered.

Soto's connection with this "demonstration" is thus described by De Lagnel (*ibid.*, pp. 91, 92):

Q. I understood you to say that this man Soto was a pestiferous sort of man, or you used some characterizing word?—A. I considered him so. I thought he was an un-

derhand, a very quiet man. He did not show anything exteriorly, for he was always courteous when I saw him, but *I thought he was secretly undermining the whole affair.*

Q. Why did you think that?—A. I was so informed. I think it was attributed to him and others—the excitement among the workmen when the money gave out, when they came in, each man armed with a machete hidden under his blanket.

Q. Yes, I understand; but I want to understand what there was that came to your knowledge or came to you in the way of information that satisfied you that he was trying to undermine you in that business?—A. I do not say undermine. He was exerting an adverse influence. The people left to themselves seemed to be quiet, harmless people, *easily aroused and excited, particularly by a man of their own nation as opposed to a foreigner*, and I was told that *Soto was at the bottom of this affair*; that he was inimical to the establishment and to me being connected with it.

Q. Yes; and if anything of that kind came from a government official it would be very likely to excite their animosity and hostility to that company, would it not?—A. I have no doubt of that.

Q. Why did you think this came from Soto, that he was the man who was doing it?—A. Because he kept a store which conflicted to a certain degree with the store at the hacienda. They were only across the roadway, and probably not a hundred feet apart. When I went down I supposed that the domain belonging to the company would be under my control wholly. When I arrived there *I found this house up*; this man's domicile. He owned the house and I never clearly understood my relations with him, how far I dared with safety to the interests of the company interfere with him. I would rather have had him away entirely, but I hesitated to do anything to militate against the interests of the company. *I know he influenced these people, for these weekly entertainments were held in front of his house, and the liquor, the mescal, was sold in his little shop or store.*

The letter-press copy-book not a fair test.

Although he and the Abra enterprise had such a narrow escape, Colonel De Lagnel said nothing about it in his letters to the company; and, therefore, according to the doctrine laid down by the committee, nothing of importance in his testimony tending to fasten the responsibility upon Mexico for the company's abandonment of the mines is to be credited unless some account of it is found in his correspondence with the home office. This criterion of the truthfulness of the depositions of the various superintendents is thus expressed in the majority report (p. 11):

The claimant's memorial, besides charging various specific acts, contains general charges of acts of violence, persecutions, and outrages by the Mexican authorities and people, which are alleged to have so alarmed the employes of the company and to have so interfered with the working of the mines that it became necessary to abandon them. If these allegations had any foundation in fact some statements would undoubtedly be found in the letter-book and letters constituting the correspondence between the superintendent at the mines and the company's agents in New York to sustain them; on the contrary, this correspondence shows that from the very beginning of the company's operations it was specially favored by the authorities.

This idea of the committee is expressed still more emphatically and comprehensively on page 7:

In the opinion of the committee the correspondence between the company's superintendents and agents at the mines in Mexico and the managing agent of the company in New York, accompanying this report, is sufficient, considered alone, to show the whole claim of the company to be fraudulent and the claimant's testimony before the mixed commission, so far as it tended to fix the responsibility for the company's loss upon the Mexican Government, to have been rank perjury.

The correspondence in question (which is printed in the Appendix, pp. 236-318) occurred between General Bartholow, Colonel De Lagnel, and Mr. Exall, who were successively superintendents of the company's mines in Mexico, and Mr. Garth, who was treasurer of the company in

New York. It is undoubtedly reasonable to expect that this correspondence will show some of the difficulties experienced by the company in Mexico, growing out of the alleged failure of the Mexican authorities to protect the company's officers and property from illegal exactions and interference, and making it impossible, with any comfort or security, to conduct the business at the mines; but it does not seem reasonable to maintain that nothing tending to make the Mexican Government liable in damages to the company is to be credited, no matter how credible the witness or the statement may otherwise be, unless the fact is specifically stated in that correspondence. Colonel De Lagnel's examination affords an opportunity to test the committee's theory. He was one of the company's superintendents, whose letters from the mines at Tayoltita to the treasurer in New York appear in the letter-press copy-book which the Mexican Government has introduced as part of its "newly-discovered evidence." He did not testify for either party before the joint commission. The Mexican Government presents him now as a witness on its behalf. His credibility is unimpeached; both sides regard him as honest and truthful. Now, will the committee apply its criterion to Colonel De Lagnel's testimony, and brand it as "rank perjury" so far as it tends to fix responsibility upon the Mexican Government for the company's abandonment of its mines, because he never said anything about the "pernicious" Soto, or the armed "demonstration" of the workmen, in his correspondence with the company's agents in New York? Nor does he seem to have said anything in his letters to the home office in regard to the deep-seated hatred and suspicion with which citizens of the United States and the country itself were regarded by the Mexicans—a feeling on their part the extent and intensity of which seems to have surprised him not a little. Quoting again from his examination (*ibid.*, p. 95):

One evening an old man of more than average intelligence was in, and they were speaking of the condition—that was after the expulsion of the French, the withdrawal of the French—speaking of the political condition of affairs, and a report had reached there that a company was formed by General Butler to seize the upper States, and it created intense excitement generally among the people, and I spoke to this man—spoke badly, of course, but could make myself understood—and he said he was always glad to see Americans or any one else who came with the right motive, but the moment he was satisfied they came there for the purpose of seizing their government or interfering in any way he would cut their throats.

By Mr. WILSON:

Q. Well, there was hostility to Americans there?—A. That existed at that time, and I just mention just what I know. My own clerk, a young man who was employed in the store, a Mexican born, and raised in San Ignacio, 70 miles from the mines—he had been educated in California and spoke English as well as I could; in talking with him one evening, discussing this very thing, he just scouted the idea of the withdrawal of the French being due to the United States Government, and I tried to show him that without the United States Mexico would never have got rid of the French; but he scouted it, and speaking of what the Mexicans were capable of, and so went on to speak as if they were able to take care of themselves with any people or peoples. I said, speaking to him: "You ought not to give heed to these reports," something of the sort, "because the Americans are friendly to you. They certainly have shown it in this late action of the Government in assisting in ridding you of this foreign control, and you ought to feel kindly towards them." He said, "*We hate them.*" I said—he was only a boy—"How can you?" I said, "I was here in 1847, in the City of Mexico, and you were born about the close of the war. You are a boy now; how can you have that feeling?" "I have no feeling one way or another towards you except, because," he said, "*it was taught us by our fathers. They have told us all and they keep at it.*"

Q. Well, there was hostility and prejudice in their minds against the Americans?—A. I judge from these conversations that that sentiment was hostile, but restrained from self-interest, and as long as capital was being placed there and workmen paid, it would be well. These men, under an honest employer who exacted nothing unfair

and treated them kindly, would have gone on in their work without interruption, but, at the same time, *this state of feeling existed in the country, and it required very little effort on the part of an evil-disposed person to inflame their tempers and minds and make them hostile, and, when they became so, they would resort to desperate measures.*

Colonel De Lagnel seems never to have mentioned this fear of annexation or conquest and this ingrained hostility in his letters to New York, although, like powder in a magazine, a spark might at any moment explode it. In answer to a question put by Mr. Foster, Colonel De Lagnel gave the subcommittee another illustration of this popular excitability (*ibid.*, p. 109):

I recollect one night, the only night I ever spent in Mr. Rice's hacienda (superintendent of the Durango Mining Company at San Dimas), I recollect on that occasion the sentiment in the town was so hostile that they told me *they were expecting an attack at any moment, and were prepared to resist it.* That I remember perfectly. I slept in the hacienda that night. As I passed through the town I came—it is a peculiar place to get in; you have to wind up the side of a formation that can be barred by a dozen men; you go through a deep ravine, and then to the hacienda, so that people in the town would look down into Rice's hacienda below. These explosions only occurred, I may say, when they were possibly half full of liquor, but *that is very frequently.* That night I could hear, as I lay down to sleep, *the cries of these people, blackguarding and cursing the people in that hacienda.*

The significance of this testimony of De Lagnel's—and there is much more to the same effect in the depositions filed on behalf of the company with the joint commission—is that it establishes an antecedent probability that the causes which, as alleged, finally compelled the abandonment of the company's mines and works at Tayoltita, did in fact exist. Given such local magistrates as Soto, Perez, and Mora, such an ignorant and excitable people as the laborers that worked in the company's mines, such hatred, suspicion, and jealousy of Americans, and such a disturbed and anarchical state of society as existed in that region at that time, and it is clear that apt conditions for such treatment as the company alleges it received were present and operative. And this antecedent probability is to be considered in connection with the improbability that property of such great value as that which the company abandoned, exclusive of the mines altogether, would have been abandoned if the alleged causes of abandonment had not actually existed; for with due protection it would have cost the company but little to have kept possession of its hacienda and works, and also to have met the legal requirements for the retention of the mines.

Failure to enforce the law proved by a witness for the Mexican Government.

The inability of the local authorities to punish crime or protect property in that vicinity appeared in the testimony given before the subcommittee by another of the Mexican Government's witnesses, Mr. A. B. Elder, who, immediately prior to his employment by La Abra Company, had been mining on his own account at La Puerta, which is about 15 miles distant from Tayoltita. He testified as follows (*ibid.*, p. 569):

By Senator DOLPH:

Q. Did you work the mine after that?—A. I worked the mine not for the company but as an individual.

Q. After that?—A. Yes, sir.

Q. And it was during the time you were working on this mine that the ore was taken?—A. Yes, sir.

Q. And in consequence of the stealing of your ore you went to the justice of the peace to get him to bring suit against the parties, and he advised you that on account of the condition of affairs it was not practicable, and you quit work on the mine; is that it?—A. Yes, sir; *I quit working.*

Q. On that account?—A. *Because I could not protect myself from the men at that time.*

Q. The authority of the Mexican Government had not yet been established at the time, after the French had left that section of the country?—A. No, sir.

By Mr. KENNEDY:

Q. Now, is it or is it not the fact that during the whole of that contest the Mexican or patriot government had control of the San Dimas mining district; in other words did the French?—A. The French did get there once or twice.

Q. Now tell us just when that was.—A. Well, I could not give you that, Mr. Kennedy; that is, the date I could not fix, because they were back and forth.

Q. What I want to get at is this: The military operations did not affect your administration of the mines at La Puerta; you were outside of the limits of the active struggle, were you not?—A. Comparatively.

Q. And your difficulties came from interruptions to your supplies coming from Mazatlan?—A. Yes, sir.

The CHAIRMAN. Military interruption or interruption of robbers, or what?—A. Military.

By Mr. KENNEDY:

Q. Now, had the military situation anything to do with the powerlessness of the justice of the peace to give you justice in those complaints that you made against the men who stole your ore; was there any interference of the military with the civil authorities?—A. It was not the military.

Q. So that there was nothing in the military situation to explain the trouble you had with the miners at La Puerta?—A. No, sir.

Q. And, of course, I need not ask whether it was anything in the military situation that made the men steal the ore?—A. No, sir. (*Ibid.*, p. 604.)

Mr. Elder had previously testified as follows (*ibid.*, p. 568):

Q. What is the name of that magistrate to whom you applied?—A. I can not tell; it was so long ago I have forgotten, they often change down there; each administration has its own officials.

Q. Did you ask him to try to stop these robberies?—A. I went to him and told him that they had taken from me probably twenty-five cargoes (7,500 pounds) of very fine ore, and I wanted to get an action against them to make them stop taking my ore; and he said, "The way things are at present, I don't think we can do anything with them."

Q. Did he say anything as to what would be the personal results to himself if he attempted to enforce the law?—A. He said *he didn't think it would be safe for him or me to attempt to enforce the law; to attempt to arrest the men.*

The following shows how Mr. Elder was treated himself when he was in charge of the company's mill at Tayoltita (*ibid.*, p. 597):

By Mr. KENNEDY:

Q. * * * Did you not come to my office in Washington, within a few days, and say to me, in the presence of another person there, that you knew that Mexican officers were in the habit of putting people in jail and confining them without any trial at law, and that there was one little black justice of the peace, who went barefooted, that you had known to do such things, or words to that effect?—A. My recollection—

Q. The question is whether you said that to me in my office?—A. My recollection is that he would come and I would have to stop the mill and he would take me about a mile away as interpreter. He did that a number of times.

Q. You mean by force?—A. Oh, yes.

Q. Well, how was the force exerted?—A. *Send a couple of soldiers after me with bayonets.*

Q. Did you ever make any resistance?—A. I say, "I can not go; I am running the mill; I will have to shut down." "It makes no difference; come along."

Q. How often did that happen?—A. That happened about four or five times.

Q. What did you say they wanted you to do?—A. They wanted me to act as interpreter in his court.

Q. And where had you to go to?—A. I had to go about a mile above the hacienda to an old village.

By the CHAIRMAN:

Q. What hacienda?—A. Tayoltita.

By Mr. KENNEDY:

Q. Do I understand that these occurrences that you mention now happened while you were assayer for La Abra Company at Tayoltita?—A. Yes, sir.

Seizure and Confiscation of the Company's Mule Trains.

The committee's proposition that "the correspondence between the company's superintendent and agents at the mines in Mexico and the managing agent of the company in New York, accompanying this report, is sufficient, considered alone, to show the whole claim of the company to be fraudulent, and the claimant's testimony before the Mixed Commission, so far as it tended to fix the responsibility for the company's loss upon the Mexican Government, to have been rank perjury." may also be tested by a comparison between the deposition of General Bartholow, who was the company's first superintendent at the mines, and his letters to Mr. Garth, the company's treasurer in New York. General Bartholow's testimony was taken for submission to the joint commission on behalf of the company, in June, 1874. His letters to Mr. Garth, three in number, were written between February 6, 1866, and April 10, of the same year—a period but little over two months, and it is therefore impossible that they should contain anything like a full account of the occurrences and transactions in Mexico affecting the company during his superintendency, which commenced in the summer of 1865. It is evident that the letter-press copy-book does not contain all of his correspondence with the home office, and can not fairly be put in comparison with his deposition, so far as the latter deals with facts that transpired prior to February 6, 1866.

General Bartholow, now deceased, attained his military rank in the war for the Union. He was distinguished and highly esteemed in Saint Louis, the senior member of a banking house in that city. The United States Commissioner, Mr. Enos Clarke, before whom General Bartholow was examined, certified that General Bartholow was well known to him "as a prominent banker and citizen of the city of Saint Louis, a man of responsibility, and of excellent character as a gentleman of truth and veracity;" and attached to the general's deposition is a certificate of the Hon. Samuel Treat, judge of the district court of the United States for the eastern district of Missouri, that, in his opinion, Thomas J. Bartholow, the foregoing deponent, personally known to him, "is a prominent banker in the city of Saint Louis, in said district, and a gentleman of unquestioned veracity and integrity, whose statements are entitled to the fullest confidence."

In rebuttal of testimony, produced on behalf of the Mexican Government, to the effect that the company never owned any mule trains, and hence could have suffered no loss by the capture of its mules, General Bartholow deposed as follows (Appendix, p. 476):

Two entire mule trains, loaded with provisions and supplies belonging to said company, were captured by the military authorities of the Mexican Republic; and the mules and supplies so captured and taken by force were appropriated to the use of said army, and I never was able to recover any of said mules or supplies, nor did said Abra Company ever receive any indemnity or compensation for the same, although I applied to General Ramon Corona, the chief in command of said forces on the Pacific coast, to restore to the company the property so captured by his subordinate officers, and at the same time implored protection from him against further depredations of that character against the property of the company. He responded to said appeal by referring me to the commanding officer at San Ignacio, Sinaloa, under whose military jurisdiction the property was seized. I visited said commander at San Ignacio, whose name, I think, was General Guerra or General Parra; I do not now recollect which of the two was then commanding at that point. I knew them both, and a number of other officers of said army, whose troops had committed similar depredations, and had levied other "prestamos" upon the Abra Company while under my superintendence.

This is a sufficiently definite statement, susceptible of direct refutation if not true. The Mexican agent in Washington, as soon as this

deposition was filed, could have taken steps to examine Generals Corona, Guerra, and Parra, but the testimony of none of these officers was filed with the commission. General Bartholow deposed that *he had visited the Mexican commander at San Ignacio*, within whose military jurisdiction the alleged capture had been made, to confer with him in regard to restitution or indemnity. Such a statement might easily have been disproved if untrue. The committee brands General Bartholow's deposition on this point as "rank perjury" so far as it tends "*to fix responsibility for the company's loss upon the Mexican Government*" (there seems to be the rub), because "it appears from the letters, copies of which are found in the testimony of witnesses taken before the committee, that the company *never owned any mule trains*, but that all its transportation was conducted by hiring mule trains owned by Mexicans" (Report, p. 13). If it is General Bartholow's letters, as they appear in the letter press copy-book, that are alluded to by the committee, the answer is that they contain nothing inconsistent with the facts stated on this point in his deposition. The capture of the mules by the military authorities in the earlier operations of the company would prove to the superintendent that it would be better to hire mules if possible. His letters show how difficult it was to do this, and how the cost of "packing" had risen on account of the frequent seizures of mule trains for the use of the army. It might well be that the packers would insist on some guaranty from the company, and, whether or not the company had any proprietary interest in the mules, or was liable to their owners to any extent in case of capture, trains of mules laden with machinery and supplies belonging to the company, and in charge of its employés, might properly be described as "the company's mule trains." What the mules carried was worth far more to the company than the mules, and even delay in receiving supplies and machinery, to say nothing of their absolute loss, would entail large additional expense upon the company and otherwise seriously embarrass the enterprise. An incident of that sort is related in Mr. Clarke's deposition (*ibid.*, p. 368).

In his letter of March 7, 1866, to Mr. Garth, in giving an account of the murder of Mr. Grove, an American employé of the company who had been in charge of one of the mule trains, General Bartholow says (*ibid.*, pp. 247, 248):

I had *nominally purchased a train of pack mules in Mr. Grove's name*, and sent him to San Ignacio to obtain a permit for them to pack for me and a guaranty that they would not be taken by the army; he succeeded in getting these documents, and was on his way home *to take possession of the mules and start them to packing*; he passed the night previous to his death at the house of one Meliton, at Tachamete. * * * Grove told this man of *his purchase of the pack train*, and that *he was to pay \$4,000 for it*, and was on his way *to take possession of it and start it to work*, thus leaving the impression that he had this sum of money with him.

This may mean that that particular train of mules was purchased by the company in Grove's name, the word "nominally" referring to the fact that Grove was merely the nominal owner, or it may mean that the purchase was nominal, *i. e.*, that there was no real transfer of the property from the Mexican owner; but this latter supposition seems inconsistent with what is said about the purchase, the price, and the possession of the pack train. Except for the question of "perjury," it would be a matter of no practical importance whether any of the mules that did the company's packing between Mazatlan or Durango and the mines belonged to the company or not; for nothing was allowed by the umpire on that account. He allowed the company what it actually expended in its Mexican enterprise, and outside of these expenditures the only allowance was for the estimated value of the ore on the patios.

But the proof that, in its earlier operations, the company did own a considerable number of the three or four hundred mules on which its packing was done, is conclusive, and is left untouched by the admitted fact that certain of the mule trains were hired, and that when he retired from the superintendency General Bartholow turned over only twelve mules to his successor.

It seems that there were two captains of mule trains in the employ of the company who were murdered on the road—one William Grove, whose body was found, and another who was "lost and never seen afterwards." This, as well as the reputed ownership of mule trains by the company, appears from the deposition of Juan Francisco Gamboa, who testified (*ibid.*, p. 366):

I was acquainted with the principal employés of the said company at the time they were in operation at Tayoltita during the years 1865, 1866, 1867, and up to the time the company abandoned the said mines, which I think was in the month of March, 1868. I know that *some mule trains belonging to the company* which were loaded with a large quantity of provisions and other articles, were taken, and it was said that this was done by the republican army, but I did not personally witness it. I heard it said at the time of the capture of *the mule train belonging to the said company*, which was loaded with provisions and other articles for their operatives in the said mines. As the head muleteer was lost and never seen afterwards, it was supposed that he had been killed by those who captured the mules. I also heard of the murder of Grove at a place called Arroyo del Candelero, between San Ygnacio and the company's mines in Durango; but I know nothing personally of the facts of the murder, except from general hearsay.

General Bartholow asserts positively, in another part of his deposition, that the company owned mule trains, and he states the fact and gives the reasons as follows (*ibid.*, p. 478):

I employed from one hundred to one hundred and sixty mechanics, miners, and laborers, including *muleteers*, during my superintendence; they were supplied with provisions purchased and packed from the city of Durango and from the valley of Sinaloa to the company's works at Tayoltita. Other supplies, such as powder for blasting, quicksilver, fuze, mining tools, also bacon, flour, and butter, were purchased at and shipped from San Francisco, Cal., to Mazatlan, and thence by *pack mules* to the company's works aforesaid. The distance from Durango to Tayoltita was 160 miles or more, and the distance from Mazatlan to the company's works was about the same. Some of the provisions used, such as meats, lard, salt, and other small supplies, were purchased for me by my contractors in the valley of Sinaloa, of whom I now recollect José Maria Loaiza, of San Ygnacio, as one of the principal contractors for making said purchases. The average distance of said valley towns from the said company's works was about 100 miles.

In carrying on works of that magnitude it was, of course, absolutely necessary for the company to *own* and work large numbers of mules, *which it did*, as I have stated. Mule trains furnished the only possible means for the transportation of supplies.

Now, compare these statements in his deposition with the following from the first letter of his that appears in the letter-press copy-book, addressed to Mr. Garth, and dated at Tayoltita, February 6, 1866 (*ibid.*, p. 239):

Mr. Griffith, William Grove (a new man from Saline County, Mo.), and Dr. Hardy have charge of all the pack trains. Each manages and controls a train. This is necessary, for the reason that if some American in the employ of the company is not constantly with the trains there is great danger, if not a certainty, that the animals would be taken by the military authorities; and, besides, I could not get the Mexicans to pack for us unless I agreed to do this; besides, with this arrangement I have a guarantee that my men, animals, and effects will not be interfered with.

Later on, in the same letter, alluding to the great excess of expenses over the estimates, General Bartholow says (*ibid.*, p. 240):

This difference in estimate is caused principally by the weight of the mill and its cost being first so greatly underestimated, and of course all calculations based upon the weight and cost of the mill in my former estimate are not reliable; and, besides, when I left here for San Francisco, in September (1865) mules could be contracted for

to pack at from \$8 to \$10 per carga, but *after the liberals took possession of the country and confiscated large numbers of mules* it was with the greatest difficulty that I could get any one to agree to pack at all; and had I not succeeded in getting military protection our mill would now be lying in Mazatlan. Had I at the time I agreed to remain in Mexico known that I would have to contend with *half the difficulties I have even now encountered* I never would have undertaken the task; but as I agreed to do it, my pride is enlisted in the success of the enterprise, and I will see it through if it is possible for energy and industry to succeed.

General Bartholow's revised estimate for the cost of packing was from \$16 to \$ 8 per carga, quite double the rates that prevailed before military seizures of mules became so frequent. The increased cost and difficulty of hiring mules may have induced the superintendent to purchase them. His nominal purchase of a mule train in Mr. Grove's name is mentioned in the next letter, already noticed (*ibid.*, p. 247); and in a letter written between these two to his bankers at Mazatlan, General Bartholow says (*ibid.*, p. 243):

On my way home from your city I passed one hundred and seventy-four mules loaded with my machinery, about half of which have arrived and the rest will be here to-morrow, when Dr. Hardy will start back with one hundred and fifty of them, which will be sufficient to transport all I have of machinery and goods left in Mazatlan. This is quite gratifying to me, and to pay the packers I need, in addition to what money I have on hand, at least \$2,000 more, and have drawn upon you in favor of Dr. W. B. Hardy for this sum, which draft please do me the favor to honor.

From this it clearly appears that some at least of these one hundred and seventy-four mules were hired. But these were by no means all the mules that were carrying for the company. And it will be observed that at that time, February 21, 1866, less than two months before the close of General Bartholow's superintendency, the machinery had nearly all been transported over the mountains to the mines; but outside of the transportation of the machinery there was abundance of work for mule trains, as appears by the following paragraph from General Bartholow's letter of March 7, 1866, to Mr. Garth (*ibid.*, p. 248):

As I advised you in my last, I have drawn upon you in favor of the Bank of California for \$10,000, which draft will go to San Francisco by the steamer of the 16th instant. The most of this money I expect to use in the purchase of salt and corn. Will start the *mules now engaged in packing machinery* to bringing up these supplies as soon as they arrive with the balance of the mill, which will be in a day or two. When our mill is running, we will not use less than 500 pounds of salt daily, and as none can be packed in June, July, August, and September, and perhaps October, it is absolutely necessary that enough be in store to run us during the rainy season. To keep us fully supplied with this necessary article will require during the packing season a *train of at least one hundred mules*, and another train of an equal number will be necessary for corn and panoca. All these matters will require constant and assiduous attention from your superintendent, for a failure to obtain an ample quantity of these supplies for the rainy season will not only involve a very heavy expense, but will greatly retard, if not absolutely stop your work. If the latter should occur, you will lose your miners, and much time will be required to obtain a new set, for *these men are so improvident that if they are without work for two weeks at a time they and their families are in danger of starvation; then mutiny and revolution is the inevitable result.*

It is confidently submitted that there is nothing in General Bartholow's letters inconsistent with what appears in his deposition in regard to the ownership and the loss of mule trains by the company. It is clear that he had expended a very large amount of money in excess of the previously estimated expenses, and it is also clear, as we have seen in Colonel De Lagnel's case, that there were things of great importance to the security and eventual success of the company's enterprise that were not reported in the letters which appear in the letter-press copy-book. Besides there is no evidence that all the letters that were written by the superintendents were copied in that book; and it has been already noticed that it contains no letters at all during the earlier and greater part of General Bartholow's superintendency.

There is a great body of testimony corroborating in a general way the deposition of Bartholow on this matter and showing that the capture of mule-trains and provisions belonging to the company and the collection of "prestamos" or forced loans from its property were matters of general repute in that part of Mexico at that time among people who were not likely to be misinformed. The testimony of two witnesses, Cole and Clarke, who were engaged as forwarders for the company in 1865, 1866, and 1867, will be found on pages 363, 364, and 369 of the appendix; Bouttier's (ib., p. 380); Avalos's, 358; and Green's, 341. J. M. Louiza, a Mexican merchant and muleteer, who was employed by the company "in the years 1865, 1866, 1867, and the beginning of 1868," in forwarding its supplies and machinery, sometimes assisting the afore-said witness, Cole, and was familiar with its operations, after testifying to its reputed losses from seizures of its mule-trains by the Liberal forces, continued as follows (ibid., p. 378):

I know that they took, as I have stated, one of the trains which was carrying provisions for the company, and it is also supposed that they robbed it and killed the muleteer, as he has never been heard of since.

This depredation occurred while Thomas J. Bartholow was superintendent of the company, at the end of 1865, or the beginning of 1866. A short time afterward, one Grove, the muleteer of another train, employed by the company, was found brutally murdered by the people of the country, on the road to the mines where he was going, at a place called "El Arroyo del Candelero," between San Ygnacio and San Dimas, where his body was found, horribly mutilated.

Exall's depositions before the Joint Commission compared with his letters and explanatory affidavit.

The opinion of the majority of the committee that "there was no forced abandonment of the mines" is based upon an alleged conflict or want of coherence between Exall's depositions before the joint commission and his letters to Mr. Garth as they appear in the company's letter-press copy-book. This opinion is stated in the report (pp. 8 and 9) as follows:

Exall, the last superintendent, was the only witness before the commission who pretended to give the circumstances of the forced abandonment, of his own knowledge. Exall's deposition is completely overthrown by his own letters. Months before he left Tayoltita he informed the officers of the company in New York that the mines were not yielding any ores that it would pay to reduce; that he was out of funds and pressed on all sides with debts, and that unless relieved by remittances of money from New York he would be compelled on that account to abandon the property. Finally, January 24, 1868, he wrote to the treasurer in New York that unless he received money by the steamer of the next month he would be compelled to come to New York and lay the embarrassed situation of the affair before the company. It also appears that about this time Exall talked publicly concerning his intended visit to New York. The original and the press copy of the following letter to the single remaining employé at the mines has been produced before the committee:

TAYOLTITA, February 21st, 1868.

MR. JAMES GRANGER:

SIR: As circumstances are of such a nature as to compel me to leave for San Francisco, and probably for New York, to inquire into the intentions of this company, I place in your hands the care and charge of the affairs of the La Abra S. M. Co., together with its property.

You are invested hereby with all power confided to me, of course acting in all your transactions with an eye to the interests of the company.

This will, to you, should occasion require it, be ample evidence of the right possessed by you to act in their behalf.

Very respectfully,

CHARLES H. EXALL,
Admr. La Abra S. M. Co.

The date fixed by Exall, in his deposition before the commission, of his expulsion from the mines was on or about March 20, 1868. An original letter of Exall's was

produced in evidence before the committee, dated at Mazatlan (the seaport, 150 miles from the mines), March 15, 1868, which shows that he had been at that place some days when the letter was written, and that he had left the property and mines in the quiet possession of Granger, his assistant; that he was on his way to San Francisco and New York to obtain money from the company to pay the overdue salary of himself and his assistant, Granger, and that he expected to return.

In his first deposition, which was made nearly two years after he left Tayoltita, Exall says that he "can not state dates and names with any degree of certainty." It does not appear that he kept a diary, and it does appear, by the letter-press copy-book and otherwise, that he left the company's books and papers at the hacienda when he abandoned the mines. Testifying from recollection, it would not be strange if he were a week out of the way in regard to the date of his departure from Tayoltita.

But it is evident that Exall's depositions, filed on behalf of the company with the joint commission, and the letters alluded to in the majority report, furnished different if not inconsistent causes for the abandonment of the mines; and the difference is so remarkable that if not explained it would justify a grave suspicion of Exall's sincerity; nevertheless, even if unexplained it could hardly overcome the great body of testimony, partly furnished by witnesses who testified on behalf of the Mexican Government to the continued interferences, annoyances, and wrongs of which the company was the victim in Mexico, and which, it is claimed, led to the abandonment of the enterprise. An explanation of the difference between his deposition and his letters was made by Exall in writing, under oath, on the 1st of May, 1878, and was received in evidence by the subcommittee on the afternoon of Wednesday, February 27, 1889, but no mention whatever is made of it in the majority report, which is likewise silent in regard to the "newly-discovered evidence" impeaching the conduct of the Mexican Government in its efforts to subvert this award.

Before considering Mr. Exall's explanatory affidavit, it ought to be observed that it was never claimed by him in his deposition, or by the company in its memorial, that he was driven out of Tayoltita by any riotous uprising (although there had been such uprisings or "demonstrations") or by any open attack upon the hacienda, or any one public act of violence, either on the part of the authorities or people. But it was claimed both by him and the company that by a persistent and long-continued course of illegal interferences and impositions, accompanied by acts of violence, with the connivance of the local magistrates, and the refusal of the higher authorities to afford protection or redress, it was made impossible for the company to conduct its business or retain possession of its property at Tayoltita.

In his first deposition, after giving an account of his arbitrary arrest and imprisonment, in regard to which the evidence has already been collated in this report, Exall refers as follows to the situation after the French army had retired from Mexico and the liberal party had come into power (Appendix, p. 337):

Indeed it was even worse in the mines, for then they seemed to turn their whole attention to what they called a purpose on our part to annex Durango to the United States. And it was in vain that we protested that we had no such intention.

The report had become general, and we were so harassed that it was impossible to continue our work with safety, as I have before stated.

It will be remembered that Colonel De Lagnel, in his testimony before the subcommittee on behalf of the Mexican Government, testified to the excitement produced at the mines and throughout the district by the story of General Butler's alleged designs upon the State of Durango.

Recurring to the company's experience before the withdrawal of the French troops, Exall says (*ibid.*, pp. 337, 338):

The military under Maximilian frequently captured our mules and stores in the same way, and shamefully abused our men who were conducting the trains. They assigned as a reason for so doing that we, the said company and its employés, were republicans, and hostile to the interests of their so-called imperial government, which was true. And so, between the two fires, we had no protection, neither of the contending parties respecting our rights under the law, but both of them robbing us. Large quantities of silver ore was taken or stolen from our mines after we had taken it out, and such were the threats against us that we did not dare to go out and defend it, as we would have been in great danger of losing our lives by so doing. The ores so taken were of the very richest.

Further on he says (*ibid.*, pp. 459, 460):

Said Judge Guadalupe Soto, and the prefect, Marcos Mora, encouraged this spirit among the men and incited them to riot by telling them, falsely, that the company came there to annex Durango and Sinaloa to the United States, and they ordered all the men whom I did employ to quit work, which nearly all of them did do frequently for weeks at a time, paralyzing the works and the business of the company, so that I sometimes had but few men at work, and the men who did work had to so manage the same as to deceive the prefect, or keep the fact from his knowledge that they were still working for the company; and on one occasion Aquilino Calderon attempted, notwithstanding this order, to work at the mine "El Cristo," but thereupon he was by force of arms compelled by said judge and prefect to quit the company's service, and they, the said prefect, Mora, and Judge Soto, infused the same hostile feeling into the whole mass of workmen, and said Mora and Soto issued the written communications or orders to me, which are referred to in said defensive testimony, requiring me to employ all the men and work the mines as Soto and Mora directed, or to abandon them to the people to be worked by themselves as they pleased; but those written orders were mild compared with verbal orders given me by said officials from time to time, and finally the last order or warning by the prefect, Olvera, notifying me to abandon the works and leave the country, which forced the abandonment of the company's works and mines.

It was but a foregone conclusion with said authorities, as from their words and actions I felt, weeks before that time, that the abandonment was inevitable. The local authorities and other politicians urged the workmen to hostile demonstrations, and at one time they charged upon the hacienda and broke in the doors. This state of hostile feeling continued, and said turbulent characters continued to harass the company in its operations, and when, soon afterwards, Macario Olvera, Soto's son-in-law, became prefect, matters grew rapidly worse, so much so that only a few nights before I escaped, an attack was made upon the hacienda of the company by some men headed by said prefect Olvera himself, as I was informed the next day by one of the friendly Mexican workmen, a muleteer. They were armed with pistols and machetes, but as I had been previously warned of it by said friendly muleteer, I was in some measure prepared for the attack, and after they discovered my position and strength they retired for that night.

Soto and Olvera both told me that unless I employed all the men who were out of work in that district, which they knew was utterly impossible, that they would let the working people drive the company out of that district and give them the mines to work as they pleased. Their verbal orders to me were much more pointed, emphatic, and hostile, than anything they wrote me. They were working openly and covertly to get us out, and to escape as much of the responsibility as possible for so doing.

Now, it is claimed by the committee, in the majority report, that although this testimony (and there is much more of it, giving the details of other annoyances and injuries) is confirmed by numerous witnesses, some of whose depositions were taken and filed by the Mexican Government, nevertheless it is not to be credited, because certain letters written by Exall to Garth show that Exall was short of money, and could not carry on the company's works without remittances from New York, which the treasurer refused to send. It will hardly be denied that two causes for abandoning the company's business might co-exist and co-operate, each one of which might be conclusive. The business might be abandoned because it was unprofitable—that is, because the ores could not be reduced at a profit—or the business might be abandoned because of such illegal interferences and want of proper protec-

tion as the umpire found from all the evidence to have been proved in this case. The financial straits of the company would be no excuse for such wrongs, nor an available defense for the Mexican Government, except perhaps in mitigation of damages.

And the fact that the company abandoned its valuable improvements, as well as its mines, supports the theory that the abandonment was caused by a conviction on the part of the company that it could neither conduct its business nor hold its property in Mexico on account of the alleged interferences and want of protection. Furthermore, the evidence seems to warrant the belief that the company in New York could have readily obtained all the capital that might have been needed, if its directors could have given any assurance that property was safe and the laws reasonably well enforced at the mines.

In answer to a question why he and the company did nothing further after the abandonment, Exall answered (*ibid.*, p. 338):

Because I did not dare to return and resume mining operations there. I was, and am satisfied that I could not do so with safety to the life of myself or my workmen, or with safety to the property of said company, such was the hostile feeling or prejudice against said company, as citizens of the United States, and further prosecution by said company of mining operations there, both on the part of the citizens and the local and national authorities of the Mexican Republic, and the violent acts resulting from that feeling and prejudice, being encouraged and connived at by said authorities as I have stated. And I returned to the State of New York, and advised said company that it was useless to attempt any further working of said mines, and gave them the facts above stated as my reason for that advice; and I understand that said company was so advised by others, who were citizens of Mexico.

Recurring now to Exall's explanation of the difference between his depositions and his letters, it appears from the testimony of Mr. Ely, who was examined by the subcommittee in the afternoon of February 27, that while on a visit to Washington he had seen certain copies of letters alleged to have been written by Exall as printed in a pamphlet or petition which had been prepared by General James E. Slaughter in the interest of the Mexican Government, and was in circulation among members of Congress in the spring of 1878, and that when he (Ely) returned to New York, he made search for the company's correspondence, and not being able to find it, he sought an interview with Exall, and asked him whether he had ever written such letters as those that had been published by General Slaughter, and, if so, whether the facts therein stated were true. The following extract from Mr. Ely's examination by the chairman of the subcommittee shows what passed between Mr. Ely and Mr. Exall before the explanatory affidavit was made (*ibid.*, pp. 949, 950):

Q. Well, what I wish is a statement of your best recollection of all you said to Exall in respect to those letters—the whole of it. Just go right through now and state it in your own way.—A. I stated to him that there appeared to be certain letters from him written to Mr. Garth as treasurer of the company, and that those letters contained statements in them that the ores at the mines in Mexico were of little value; that there had been no trouble down there with the authorities; that he had been embarrassed for want of funds—well, I can not give you it in much more specific form than that. The general upshot of it was that the company was without valuable property down there, and that his letters tended to show it; and that they were without means down there, and that his letters tended to show that; and that there was no difficulty with the people about titles or anything else of that kind, or any abandonment; that he had written to Mr. Garth that if he did not intend to let the property go to the dogs down there he must send some money. I can not remember all I said, nor give you now anything nearer to it than that; that I certainly said to him the statements in those letters, if those letters were written by him and the statements were true, conflicted with the statements that he made in his depositions for the company, and that if those were his letters, and the statements were true, I wanted to know it; and that if they were not true I wanted him to tell me what his explanation of them was, if they were his letters. That is

as near as I can now tell you, Mr. Senator, about this. I have no doubt that I gave him something more, particularly of the expressions in the letters, but I conveyed to him the impression as strongly as I could that those letters, in my opinion, went counter to his affidavits, and I wanted to know what the truth was about them.

Q. I suppose that, as a lawyer, you selected out the points that you thought were the most essential for him to reply to?—A. Well, it showed most conclusively that his depositions would not be true if the letters were true.

Q. And you stated to him what these points were, in the language of the letters, as you saw them in Slaughter's petition?—A. No, I did not use the language of the letters, except that I jotted down a few expressions that struck me as peculiar.

Q. Well, can you recall any of those expressions?—A. One was about its "going to the dogs;" did not want the property to "go to the dogs" struck me as a peculiar expression and made an impression upon my mind; and send him some money; wanted to know the intentions of the company in regard to it, and another thing is there is no difficulty about titles or anything else; it was only money.

Q. Did you inform Exall that his letters, if genuine, contradicted his deposition given before the Commission?—A. I suppose I did that, yes; in this way: I told him if these letters were genuine, or if the statements in them were true, that then they conflicted with his depositions.

Exall's explanatory affidavit is printed on pages 943-945 of the Appendix. It shows that shortly after he arrived at Tayoltita he came to the conclusion that it would be impossible, on account of the state of the country and the hostility of the local authorities, for the company to retain possession of its property and carry on its business of mining; and that he entered into a scheme or plot with James Granger which is stated as follows (*ibid.*, p. 943):

We saw that if the company was actually expelled, as we were certain it ultimately would be, we might not, and most probably would not be able to secure the property, as it would probably fall into other hands; but if the company could be induced voluntarily to abandon the property before matters culminated in an expulsion, or to part with it for a small consideration, we could probably retain the possession and secure the property to ourselves and due protection (*Mr. Granger being an English subject*).

The company was already somewhat disappointed because more rapid progress had not been made at the works and in reaching money results, and somewhat dissatisfied with being drawn on by the superintendent for more money. *We thought that the state of affairs at the works could, from time to time, be so presented to the company as to induce the feeling we desired, and concluded to act accordingly.* * * * In my letters to Mr. Garth, treasurer of the company, written from time to time, I purposely dwell upon and exaggerated the necessities and the exigencies of the situation, and belittled the value of the mines and ores, and gave to the letters a discouraging aspect. I also wrote to him about my arrest and the threats made to me, and the difficulties and obstructions generally which I met with from the Mexican authorities and people.

It has already been observed that the letter-press copy-book contains copies of letters in regard to the need of money, and the impossibility of continuing the company's operations without it, but no copy of any letter, except the one addressed to the prefect, in regard to the "arrest" and the "threats," or (later than July 13, 1867) in regard to "the difficulties and obstructions from the Mexican authorities and people" referred to by Exall in this affidavit. Perhaps he did not copy his letters to the home office on these subjects. Be this as it may, they do not appear in the letter-press copy-book, the incomplete character of which has already been noticed. Superintendent Bartholow's earlier letters are all missing. One of these he alludes to in his letter of February 6, 1867, as having been written about the first of the previous month. He also alludes in his letter of March 7, 1867, to his "last"—an earlier letter which does not appear in the copy-book—in which he says, he informed Mr. Garth that William Grove was missing, and that it was feared he had been waylaid and murdered. Nor are the dates in the copy-book consecutive (*ibid.*, pp. 313-317).

Exall denies in his explanatory affidavit that he ever delivered the letter of February 21, 1868, to Grauger, turning over to him the care of

the property, and explains how that letter came to be written (*ibid.*, p. 944):

Mr. Garth wrote such answers to my letters as I assumed they would call forth, and from the answers it seemed evident that the company would not be unwilling to enter into some arrangement to part with their property; and in the latter part of February, 1867, I concluded to go on to New York and see what could be done to that end.

Preparatory to so going I drew a paper addressed to James Granger, which purported to invest him with my authority and to give him power to act for the company. I had no power to confer, being only an acting superintendent, nor authority to confer such power if I had any; but it was necessary for the purposes we had in view that he be in possession, and that he should seem to Mexicans to have the proper authority. Had I gone then, I intended to return. But I reconsidered my decision to go at that time, and concluded I ought to remain longer before going, and await still more alarming indications from the people and authorities, and the paper I have referred to was never delivered to Granger. Whether I destroyed it or left it among the loose and discarded papers at the hacienda of the company I do not remember.

He then continues as follows:

I remained there some time afterwards, but I waited too long, and the explosion which I believed to be several months distant came unexpectedly, and the expulsion of the company, and my abrupt departure to save myself from personal harm, and the complete abandonment of everything belonging to the company took place as I have stated in my deposition.

He adds that he still hoped that Granger, instead of some Mexican, would get the possession of the property, but that he was afterwards informed that Judge Soto, the father of Granger's wife or mistress, took possession of and occupied the company's hacienda. He then says:

I returned to New York and informed the company of its expulsion and of my forced abandonment of all its property, and gave them a full history of the state of their affairs and of the feeling in Mexico against them. The company seemed to think the case was hopeless.

The affidavit closes as follows:

I speak of my letters from general recollection of them only, but the foregoing is a correct history of the origin and purpose of all letters I have ever written which contain anything inconsistent with my depositions. They were written for the express purpose of enabling Granger and myself to obtain the possession of the company's works and mines in the contingency which I have mentioned, and were known to and largely prompted by Granger, and in fact partly drafted by him, and in so far as they conflict with my depositions the letters are untrue, and every material statement in my depositions is true.

The question arises whether there is anything in the evidence, outside of this sworn statement, to show that Exall really exaggerated the financial difficulties at the mines and belittled the value of the ores in those letters of his to Garth. It does appear that Exall received no remittances from the company during the whole term of his superintendency, which lasted from April, 1867, to March, 1868; and that the only draft he ever undertook to draw upon the company—the one for \$3,000 mentioned in his letter of July 13, 1867, to Mr. Garth—was not negotiated (*ibid.*, pp. 307, 309). It also appears that on the 1st of July, 1867—eight months before the abandonment—he had a cash balance of \$1,733.58 on hand at Tayoltita, and that the company at that time owed its American employes \$1,070.46; C. Sandoval, for charcoal, \$46.59, and Echenique, Pena & Co., at Mazatlan, for money borrowed and merchandise, \$2,094.70, making a total indebtedness of \$3,211.75, and leaving a deficit of \$1,478.17. (*Ibid.*, p. 306.)

From this time till the abandonment Exall paid all the running expenses of the mines and the works and the hacienda out of the returns from the mill. He also settled with Cullins, to whom the company owed \$1,492, but he says in his letter of December 18, 1867, that he

borrowed that amount (*ibid.*, p. 313). If he did, he subsequently repaid it, for he left no debts unpaid at the mines or in Mazatlan, except arrears of salary due to Granger and \$250 borrowed from Pena & Co. A. B. Elder testified that he and other employés of the company were paid in full when Exall returned from one of his trips to Durango (*ibid.*, p. 582). Mexican witnesses accuse him of squandering the products of the mill in gambling (*ibid.*, p. 521), and seem to intimate that bullion was "disposed of" improperly by Exall and Elder (*ibid.*, p. 417). This may refer to the fact stated in Exall's affidavit that he shipped bullion clandestinely to New York and San Francisco instead of sending it to the mint at Durango (*ibid.*, p. 944). The statement in his second deposition that he extracted \$17,000 worth of silver from 20 tons of ore (*ibid.*, p. 462), which has seemed so incredible to the Mexican Government and the majority of the committee, receives considerable color of probability from General Bartholow's letter to Mr. Garth, of March 7, 1866, in which the general makes the following statement (*ibid.*, p. 246):

From "La Luz" we have taken out 400 tons, and the quantity mined weekly has been increased to an average of 30 tons, and at the same time we have succeeded in reducing the cost delivered on the patio to \$15 per ton. In this mine we have found a small vein, an offshoot from the main vein, which is now about six inches wide, which is producing with two hands (no more can be worked in it) from *three to four hundred pounds per week of ore of surprising richness*. If the opinion of the Mexicans, including Don Ignacio Manjarres, is worth anything, these say it will yield \$1 to the pound. I think this is an overestimate but I would not be surprised if it should assay \$1,000 to the ton. I have put up about two pounds of it, which I will send with this letter by Wells, Fargo & Co.'s Express. On its receipt I would be glad if you would have it assayed and report the result. *This ore we put up as fast as mined in gunny sacks and store it in the wareroom.*

Another rich "find" was made under Colonel De Lagnel's superintendency, to which he alludes in his testimony before the subcommittee, as follows (*ibid.*, p. 54):

I remember the wild excitement among the miners, because when the ore was brought down you could see the gold in streaks as large as a big diaper-pin head, little pellets of gold along like fine shot so as to leave a line of gold.

Senator BROWN. That then was very rich gold ore?

The WITNESS. I took it for granted that that was rich ore. All the miners seemed to be in a state of excitement. They found it out by sinking a shaft, I think for ventilation, or for the easy dropping of the ore, or some such purpose as that, from the upper level, I forget just what, and in that way they found this valuable ore.

Mr. Elder testified that he made assays of ore at La Puerta for Colonel De Lagnel, previous to June, 1866. It may have been some of this ore that gave the following satisfactory results (*ibid.*, p. 569):

Q. Just tell us what assays you made for him before you went to Tayoltita.—A. He came to my place with some ores and asked me to make assays for him. I did so, and I got very fine results, about \$250, and as much as \$600, that day from those ores.

If these rich "finds" were all stored in the warehouse in gunny sacks, or kept, as ordinary prudence would require, in some safe place by themselves, there must have been a lot of high-grade ore on hand, and it was probably from this that Exall got such results after the mill was running, and after De Lagnel had left Tayoltita; for there was only one "run" of the mill while De Lagnel was superintendent, and that was made just before his departure for New York, from 10 tons taken promiscuously from the large piles on the patio (*ibid.*, pp. 36, 37).

It also appears that Exall must have incurred legal expenses to a considerable amount, for he employed one of the most distinguished lawyers in Mexico, Mr. Jesus Chavarria, to appeal, on several occasions, to the State government, on behalf of the company, for the protection and

redress which had been denied by the local authorities (*ibid.*, top of page 389).

It therefore seems clear from the evidence, outside of Exall's explanatory affidavit, that he did exaggerate his financial difficulties and belittle his resources in the letters which he wrote to Mr. Garth after July, 1867. He seems also to have invented dangers which did not exist, for we find him saying to Mr. Garth on the 6th of October, 1867, that "amparas are not now granted, and mines are to be held only by working;" and yet, eight days later, he applied to the president of the mining deputation of the district of San Ygnacia (apparently with success) for an amparo for six months on the mines Arrayan, Sauz, and Talpa (*ibid.*, pp. 310, 312).

Shortly after this, on November 8, 1867, Granger writes to Garth that Exall had left Tayoltita on the 26th ultimo with bullion for Durango, in company with Mr. Sloan and two mozos, and that it was reported that the party had been met by a band of robbers and that everything was taken from them (silver, mules, arms, etc.), leaving them in their underclothing to make their way into the city, about half a day's journey (*ibid.*, p. 312); and on the 18th of December Exall writes to Garth "for God's sake" to telegraph to the Bank of California and pay De Lagnel's draft, so as to stop the threatened suit (*ibid.*, p. 313), although, two months previously he had explained to Mr. Garth that "there was a flaw in the draft," De Lagnel having failed to sign as superintendent, thus "making it an individual affair" and preventing a seizure of the company's property (*ibid.*, p. 310). In his last letter to the company's treasurer, which appears in the letter-press copy-book, dated at Mazatlan, January 24, 1868, Exall raises this same alarm again, and says that he has been doing everything in his power "to keep the Bank of California from getting possession;" that he has thus far succeeded, but "can prevent them no longer," and fears that "they will eventually have their own way."

Meanwhile his difficulties with the local authorities were increasing and their aggressions growing more intolerable. Judge Soto had denounced the lower hacienda and had taken possession of it and set men to work on it, although the company had intervened by Exall to protect its property, and no decision had been rendered by the courts. Exall's letters to the prefect at San Dimas show that he had appealed to Judge Perez at Tayoltita against Judge Soto's illegal action, and although Perez decided that Soto must suspend work, Soto continued his operations, and Exall afterwards learned that Perez had told Soto privately to go on with his work, "which he did," and thereafter "continued working." The two local magistrates seem to have combined to break the law and seize a part of the company's property. It also appears from the same letter (*ibid.*, p. 314) that Soto claimed that he was working by authority of an order from the prefect at San Dimas—the same official before whom Exall's appeal was pending and to whom the letter in question was addressed. In a letter written the same day to Castillo de Valle, December 5, 1867 (*ibid.*, p. 315), begging his good offices in this matter, Exall expresses his fear that the local authorities had committed themselves to Soto, and shows what a serious injury Soto's proceedings were and would be to the company.

It matters little that when the case was carried to the state courts of Durango the decision was eventually against Soto. The company was virtually in the power of the local authorities at Tayoltita and San Dimas, and all their arbitrary and illegal acts were known to the populace and were productive of hostility and opposition to the com-

pany and contempt for the law. Following this trouble with Soto came the arrest and imprisonment of Exall by Soto's associate, Judge Perez, under the circumstances already described, and this was afterwards followed by a judicial "demonstration" against Exall, in presence of the workmen, at which he and the company were threatened with expulsion from the mines. These judicial assaults seem to have culminated in a warning given by Olvera, the prefect at San Dimas, to Exall in person, that his life was not safe at Tayoltita, and that if he consulted his safety he would abandon the mines. (*Ibid.*, pp. 460-462.)

The company's case does not depend on Exall's depositions.

Having considered the evidence tending to show that Exall did really exaggerate the company's financial difficulties at Tayoltita in his letters which appear in the letter-press copy-book, as stated in his explanatory affidavit, it now remains to inquire whether there is evidence, in addition to what has been already quoted or referred to, showing that the causes to which he ascribed his abandonment of the mines and the works of the company at Tayoltita, in his depositions before the joint commission, did really exist. It will be noticed that his explanatory affidavit closes with the statement that in so far as they conflict with his depositions the letters are untrue, and every material statement in his depositions is true. The grounds for the abandonment of the mines, as stated in Exall's depositions, have already been noticed in this report. It is now proposed briefly to collate the evidence which was before the umpire on this branch of the case, and has not been hereinbefore noticed.

The Mexican prefect, Mora, who was examined on behalf of the company, being questioned as to his predecessor, Quiros, and his successor, Olvera, and particularly as to their disposition towards La Abra Company, answered (*ibid.*, p. 393):

That neither of them were satisfied with the laws given by President Juarez, inviting foreigners to come to the country, and although those persons might have obeyed them it was against their own wishes; that *they not only showed their unwillingness to do so, but in various ways tried to molest them and force them to leave the place.*

As to the company's fruitless appeals to the State authorities for protection, the same witness testified (*ibid.*, p. 395):

That lawyer Chavarria informed him that the Abra Mining Company, at the time referred to in the question, employed him and Mr. Rice, the former as lawyer and the latter as attorney in fact of the company, to make a complaint to the governor, General Francisco Ortiz de Sarate, of the damages and persecution which the company were experiencing at San Dimas, and asking him for protection; that at the time the governor sent for deponent, and questioned him with regard to the company; that the deponent informed him that it consisted of Americans, and, like all other foreigners, was working for the ruin of Mexico; he refused it the protection which it prayed for.

In regard to the stealing of the company's ores and the failure of the local judges to protect the company from these depredations, Mora testified (*ibid.*, p. 394):

That during the time of his administration he had no knowledge of the theft of the ores referred to in this question, but he did hear it stated that during Olvera's time the Mexican operatives, who were absolutely without work to maintain themselves, stole some of the company's ores, and that neither Quiros nor Olvera would listen to any complaints, made on account of the said robberies, by the company's superintendent.

Avalos, when he was examined on behalf of the Mexican Government, subsequent to his deposition for the company, testified that it was true that the company had been prevented by the people from working. Extracts from his testimony on behalf of the company have already been given.

In his first deposition for the company James Granger testified as follows (*ibid.*, p. 356):

Question number thirteen. Were any of the authorities, local or national, civil or military, in the mining regions of Mexico in favor of extending protection or security to American companies engaged in working said mines?—A. No, sir; they are bitterly opposed to it; as I have before said, they are all in favor of seeing the mines of Mexico in the hands of and worked by Mexicans. I have heard the two prefects of San Dimas, that I have named, Marcos Mora and Macario Olivera, say so while they were officiating as prefects there, and I have often heard Judge Guadalupe Soto, of Tayoltita, say so. The last-named authority I have heard say much more on the subject, as applied to "La Abra Silver Mining Company." * * * *That he would go for clearing them out if they attempted to return to work their said mines at Tayoltita.* I know that this was and is now the feeling there with higher Mexican authorities than Guadalupe Soto in that district.

The same witness testified (*ibid.*, p. 357) that at that time, May 14, 1870, the principal hacienda and buildings of said La Abra Company at Tayoltita were occupied by the said Guadalupe Soto and his family, and that his office was then "gefe de Cuartel." Granger said that he had been at Tayoltita himself "but a few days ago." Avalos also testified in May, 1870 (*ibid.*, p. 358), that the company's hacienda and property at Tayoltita were occupied at that time by Judge Soto and his family.

Alfred A. Green, who, since the award in favor of La Abra Company was rendered, has been employed by General Slaughter under his contract with the Mexican Government to obtain testimony impeaching the award, testified in New York on behalf of the company in December, 1869. In that deposition, he says (*ibid.*, p. 241):

I know the mines called "La Abra," in the State of Durango. It is situated at Tayoltita in the same district of San Dimas. I also know "La Abra Silver Mining Company," the company that owned and worked said mines "La Abra." * * * In January, February, and March, 1868, I was frequently at said mine "La Abra." * * * In January, 1868, at San Dimas, I heard some Mexican citizens, in the presence of the "juez" of that place, declare that they would kill or drive away all the men of that company, and the threat was applauded by the "juez."

The same witness testified in regard to the stealing of ores, and the feeling of general hostility on the part of the authorities and people as follows (*ibid.*, p. 342):

After the expulsion of said "La Abra Company," which I have mentioned, in March, 1868, *Mexicans were engaged in carrying off its ores*, and it would have been impossible for the company to have returned and continued its mining operations. Any persistent attempt to do so, I am sure, would have only resulted in *the killing of the superintendent and his officers.*

My long residence in Mexico, and my ability to converse in the Spanish language, and the interest which I had taken in the liberal cause, and services I had rendered it, which were well known in the State of Durango, enabled me to mingle freely with the inhabitants, and for a long time, and until a short time before I was driven away from San Dimas, I was regarded by most of the Mexicans more as one of them than as a foreigner, and matters were talked of by the citizens before me as freely as if I had been a native-born Mexican, and I know well the state of feeling of the citizens of the State of Durango, and the Mexican authorities, civil and military, against foreigners in general, and citizens of the United States of America (or Americans as they were called) in particular, at and subsequent to the commission of the acts against said "La Abra Silver Mining Company," which I have mentioned. It was very bitter, and ended in open hostility and violence. The report was industriously circulated that the object of the Americans, and especially "La Abra Company," was to annex Durango, Sinaloa, and other border States to the United States of America. Such, I know, were not the views or aims of Mr. Exall nor of other Americans in charge of neighboring mines, whom I knew. The report was circulated to inflame the more ignorant classes. The real object, it was evident, was to get possession of the mines and property of the American companies and the benefit of their expenditures.

On several occasions, in January, February, and March, 1868, in San Dimas district, I have heard Mexican citizens and authorities say that they meant to drive off and kill out all the Americans, and get their mines and property.

This feeling of hatred and hostility was shared by the military authorities and soldiery, and by the local civil authorities, and was encouraged by them. It grew in intensity and boldness until it culminated in open violence and forcible dispossession of "La Abra" and other companies. Several other American companies, besides La Abra, were driven off in a similar way. *Any attempt to obtain restitution or protection from the authorities was vain, and only increased the personal danger.* * * * *

From my knowledge of the feelings of the citizens and authorities in San Dimas and the situation of affairs there, and from my own case, I am confident that after the acts against said "La Abra Company" any effort on the part of said Exall, or of anyone else for the said company, to continue mining operations would have resulted in his or their death by violence.

It appears in the "new evidence" offered by Mexico (Ex. Doc., No. 103, p. 287) that, while the joint commission was in session, the Mexican Government obtained (or now alleges that it obtained) a deposition of William R. Gorham, in March 1872, stating that the deposition of the aforesaid Alfred A. Green, from which the foregoing extracts are taken, "was not read to said Green or signed by him." Now, although Gorham's deposition was not submitted to the joint commission, nor any evidence tending to impeach the authenticity of Green's deposition, Gorham's deposition has, nevertheless, been printed by Congress as part of Mexico's "new evidence." Nor has the Mexican Government availed itself of the opportunity afforded by the Senate to produce Green before the subcommittee and examine him in regard to his deposition or the matters of which it treats. He is still living, and, as has been stated, *has been in the employment of the Mexican Government*, under General Slaughter, endeavoring to collect evidence in Mexico to impeach this award. His conduct in that employment will be noticed hereafter in connection with the recent testimony given before the subcommittee on behalf of the Mexican Government by Capt. Charles B. Dahlgren, who also had made a deposition, in favor of the company, which was filed with the joint commission. Perhaps the reason why Gorham's affidavit, stating that Green had never signed his deposition, was not submitted to the joint commission, was the fact that an affidavit of the same Gorham was attached to Green's deposition, certifying that *Green had made it*, and that it was "entitled to full faith and credit" (*ibid.*, p. 344). Gorham's affidavit would not do for the joint commission, but it has been available, with other false and defamatory matter of the same sort, as will be shown hereafter, to swell the volume of the so-called "newly-discovered evidence" presented by the Mexican Government to the State Department and Congress for the purpose of subverting this award.

Recurring again to the testimony corroborating the company's memorial and Exall's depositions, attention is invited to the deposition of Carlos F. Galan, which was taken in January, 1874, in support of the claim of James Tobin *vs.* The Republic of Mexico, and submitted also in this case. Mr. Galan was a cadet of the military college of Chapultepec, a lieutenant in the Mexican army throughout the war with the United States, subsequently a member of the bar in Sinaloa and Lower California, and, after holding various positions of honor and trust in the latter territory, its governor and chief-justice. He resided at Mazatlan from 1869 to 1872, where he was an interpreter and translator of the English, French, Spanish, and Italian languages, and publisher of the newspapers Occidental and La Voz del Pueblo. His testimony relates mainly to the difficulty of taking depositions in Mexico before the Mexican authorities in behalf of claimants, citizens of the United States, under the treaty of July 4, 1868, and his account of the efforts of high officials to intimidate Mexican witnesses and prevent their testimony from being taken in support of American claims, and to sub-

orn testimony in opposition, shows a signal disregard of law and justice in quarters where it would not be expected. His testimony in regard to the forcible seizures of property by the military, the levying of "prestamos," and the illegal and tyrannical conduct of the civil authorities during the time that the company was conducting its operations in Mexico, and subsequent thereto, is as follows (*ibid.*, pp. 497, 498):

Question 16. What officers of the army, under General Corona, were authorized or allowed to exact and collect such "prestamos," or forced loans from foreigners?

Answer. All officers on duty, from major-generals down to lieutenants, and I have known of cases there where non-commissioned officers and private soldiers of that command exacted and collected such *prestamos*, with or without the authority of their superiors in command. Such cases were common and *an every day occurrence*, during the late wars there, not only during the time covered by the questions, from 1863 to 1867, but even up to the day I left that country, in May, 1872, such exactions were still made and enforced in that military department by said authorities.

Question 17. How do you know or how were you made acquainted with the facts stated by you in answer to the foregoing question?

Answer. By living within the military jurisdiction of General Corona during the time referred to, and by listening to the statements of the military officers of the Republic, many of whom often stated to me that they were ordered by their superior officers in command to make such demands, and to seize, for the use of their troops, all or any provisions or supplies found with any one, or any money, goods, chattels or other things of value, which could be converted into money or supplies for the army, in case they should refuse or neglect to pay such *prestamos*; and in many cases the said military authorities of the Republic seized and converted to their use the goods, provisions, and other supplies needed by the army, without stopping to make said exactions or of going through the form of levying *prestamos*. I know the facts, too, by conversing with the sufferers, soon after the depredations were committed there, some of whom were broken up and ruined in their several enterprises, of which General Corona was the chief.

Question 18. Will you please name some of the foreigners of Sinaloa and Durango who have suffered heavy losses, or ruin, as stated by you, on account of said acts of the Mexican military authorities?

Answer. Yes; I know a Spanish house, in Mazatlan, that of Echeguren Harmanos & Co., late "Echeguren Quintana y Co.," who have suffered in this way, *i. e.*, by such *prestamos* alone, exacted by said military authorities, and the payment enforced from them, to the extent of nearly or quite a quarter of a million of dollars, during the time referred to; and I know of many other foreign houses there who have been compelled by said authorities to pay large *prestamos* for the support of said army, amongst whom I will name "Echenique Pena y Co.," "Careaga y Co.," "Storzel Barning & Co.," "Melchers & Co.," "John Valeke, and "Kelly & Co.," and amongst the American miners, farmers, and manufacturers who have suffered in the same way, many of them having been broken up and entirely ruined by the said acts of the military combined with the *prefects of the districts and other local authorities*, I will mention the "Trinidad & San José Silver Mining Company"—John Middleton, of this city, Charles Bonttier, a partner of the above, whose brother, Leopoldo, the superintendent of their mines, actually died from the effects of his imprisonment, who was maltreated and abused in nameless ways while a prisoner, because he had the misfortune to have been born in France, which facts I learned from the Mexican officers themselves; George Briggs, a farmer; one Mr. Elliott; Alfred Howell, a manufacturer at Mazatlan; the "Carmen Mining Company;" Daniel Green, of this city; John Cole, of Camancho, near Mazatlan; "La Abra Silver Mining Company," and James Tobin, this claimant.

John P. Cryder, who was employed as assistant superintendent of the Guadalupe Gold and Silver Mining Company, about a league from Tayoltita, from the last of December, 1867, to the 1st of March, 1868, remaining there until the close of that month, and who was frequently at the company's hacienda, and "intimately acquainted with Mr. Exall," testified as follows (*ibid.*, pp. 375, 376):

I heard said local judge, Nicanor Perez, say he would "run that La Abra Silver Mining Company out of Mexico." He said that "the mines of Mexico belonged to Mexicans," and that his Government had no right to permit the "Gringos," as he called Americans, "to come here and carry off all the best of their metals," and that "the people," he said, "would take care that the ores of La Abra mines don't go away in the hands of these Gringos," and he, the judge, Nicanor Perez, would see that the people of Mexico shall have the benefit of these *locos* ('fools') investments.

I recollect that his remarks were made in a prejudiced and determined manner, and in the form of a threat, that he would encourage any act, if necessary, to carry his point against that company, and I so understood it, and communicated the facts to some of the American employés there. This was in February, 1868. I afterwards told Mr. Exall of the threats of the jefe.

I also heard Macario Olvera, the prefect or gefe politico of the district of San Dimas at that time, February or March, 1868, say that "La Abra Silver Mining Company could not stay in that district;" that "it would be impossible for them to do so." This was at San Dimas; he did not say, positively, what course he would pursue, but he said the authorities were determined to get rid of that company, and they could not stay there and work those mines; he said it would be better for that company to give up their mines and leave the country "before any accident should happen," for which, he said, "the prefect would not be responsible." I asked him what he meant by making use of the word "accident" in that conversation, and he made an evasive reply, which satisfied me that mischief was meant, either by the prefect himself or by the people or local authorities, with the acquiescence of said prefect. This said Macario Olvera was, at the time this conversation took place, February or March, 1868, the official and acting prefect of that district. He was called "gefe politico." The gefe politico of a district, in any part of Mexico, is the chief authority, civil, military, and political. I know a man must possess great nerve if he dares to oppose the will of the "gefe politico" in any district of this country. The intimations of difficulties or "accidents" made by said gefe politico against La Abra Silver Mining Company were made in the presence of two or three Mexicans, who evinced immediate approval of said remarks, and considerable of feeling. My suspicions were at once aroused that Superintendent Exall might be in great danger, and that other "accidents" might happen, and I told Mr. Exall the first time I saw him after this conversation I have related with said prefect.

It will be remembered that Cryder was an eye-witness of Exall's imprisonment, and that his testimony regarding that occurrence has already been quoted.

The deposition of Mr. Jesus Chavarria was taken on behalf of the company at Durango, July 11, 1872, before Pedro J. Barraza, first judge of letters. A certificate of this judge is attached to the deposition, stating that lawyer Jesus Chavarria is "a resident of this city (Durango), one of its first lawyers, and, by his dignity and well-known integrity, is, beyond all doubt, entitled to full faith and credit."

The whole of Mr. Chavarria's deposition should be carefully read. He testified as follows (*ibid.*, p. 387):

That in July or August of 1867, the year referred to in the question, he was at San Dimas on private business, and also at Tayoltita, as he has before said; that he went to the mines for the purpose of seeing them, and that he conversed with the gefe politico upon their condition; that in consequence of these he became satisfied that both that officer and the mining people were strongly bent upon annoying and driving the Abra Company away, and with which they were continually provoking quarrels; that officer and some of the workmen stated that they believed the company to be annexionists; that it was therefore hateful to Mexico, and they thought it best to drive it away from that mineral anyhow; that, for this purpose, the authorities instigated the laboring people, on the pretext of their wants, not to work for the company; that he further knew that the company's ores were frequently stolen, and that it was not legally protected by the Gefetura, where the superintendent usually made fruitless complaints of the thefts; that that officer [the gefe] also gave him, deponent, to understand that he had a special interest in the expulsion and depoliation of the company, in which case he intended to denounce the mines at Tayoltita, and he offered deponent a share in them, which deponent refused, and reproved his conduct in permitting the operatives to steal the ores, which they did with impunity, to the great responsibility of the authorities of that department, who, either by their connivance or indolence, compromised the honor and good name of the Republic.

It will be remembered that Marcos Mora, who was at that time about to retire from the office of prefect, was the author of the order to the company which has previously been mentioned, and that it was under Mora's authority and an "uprising of the people" that Soto sheltered himself for the orders which he had issued to the superintendent of the mines.

It appears that Chavarria had an interview with the incoming prefect, who proved himself a worthy successor of Mora and a fitting ally of Soto. Mr. Chavarria says (*ibid.*, p. 388):

That he met Macario Olvera on the road from San Dimas to Gavilanes; that they conversed together upon the subject referred to in the question, and Olvera acknowledged to him *the plans and intentions existing at Tayoltita on the part of the authorities and the operatives, to injure and expel the Abra Company from their mines by intrigues, or such direct and indirect means as it would be impossible for them to resist, and that Olvera revealed to deponent that he was interested in that hostility, and in combination with the jefe politico, whom he was going to replace, to carry out the sinister projects before referred to.*

Mr. Chavarria gives the following account of a meeting of the company's Mexican workmen at the house where he and Mora were stopping at Tayoltita (*ibid.*, p. 388):

11th. State whether Marcos Mora, the jefe politico, was visited on the second night of their stay at Tayoltita, in July or August of 1867, at the house where they were stopping, by any of the employes of the Abra Company, or any of the head Mexican workmen who had been in the employ of the company? Also, state all that then and there took place between the said employes and the jefe, Mora, as to their continuing in the company's service; state what the parties named did and said in your presence.

Ans. That all the matters referred to in the question are true; that the greatest disorder prevailed upon that occasion; that the head miners, by order of Marcos Mora, mutinied against the Abra Company and the superintendent; they refused to work any longer in the mines, which resulted in the continuance and increase of the robbery of the ores, which was openly carried on in daylight, and in the presence of the superintendent.

Chavarria also testifies as to what Olvera and Mora told him in Durango, after Exall had abandoned the company's mines and works at Tayoltita, in regard to the cause of the abandonment (*ibid.*, p. 388):

12th. State whether, at Durango, or other places, you have had any conversations with the said jefe politico, Marcos Mora, or his successor, Macario Olvera, since the month of March, 1868, touching the reasons why the Abra Silver Mining Company abandoned their mines and property; and if so, then state all that the said jefe politico told you, and others in your presence, prior and subsequent to the abandonment of the mines, which may throw any light on the subject of the abandonment, and the manner in which this was brought about.

Ans. That subsequent to the time referred to in the question, he conversed with Macario Olvera, in Durango, and also with Marcos Mora, on his frequent visits to him when he was in prison, and was told that the company had finally been compelled to abandon their mines at Tayoltita, through the loss of their property, owing to the concerted hostility against it in March of 1868.

Mr. Chavarria also testified of his own knowledge to the failure of the appeals which he made on behalf of the company to the national and State authorities for protection against the wrongful acts of the local magistrates at San Dimas and Tayoltita (*ibid.*, pp. 388, 389):

15th. State whether the protection of the national and State authorities was duly and legally invoked on behalf of the Abra Silver Mining Company, at the end of 1867, to protect it against the unlawful attempts made against it and the robbery of its property by Mexicans at the instigation of the jefe politico of the district and the local authorities at Tayoltita. If this be so, then state how you learned the facts. Who was employed by the company as its agent to represent the facts to the authorities? Who was employed and acted as the company's attorney at the time the said protection was invoked? State what was told him, and what was done in his presence by the national and State authorities when the said protection was asked for and in reply to his petition.

Ans. That the matter stated in this question is true in all its parts; that deponent employed by Mr. Rice, of California, as Exall's lawyer, repeatedly solicited, from the State government protection for the Abra Company, to suppress the robberies and outrages which the company were experiencing at Tayoltita, but all to no purpose, as, after innumerable steps and measures, the executive of the State never even so much as requested the authorities at San Dimas to comply with their duties. The only answer given was, that the government of the State, at whose head was Francisco Ortiz de Zarate, in 1867, would not meddle in private matters.

This corroborates Mora's testimony, already quoted, on the same subject, and, with the testimony of the company's employes, conclusively establishes the allegation of the memorial and justifies the umpire's conclusion that the company was denied due protection in Mexico.

Mora was afterwards imprisoned for malfeasance in office and Olvera was killed in a riot among the miners.

Proof that an immense quantity of ore was stolen.

Further testimony could be cited sustaining the allegations of the company's memorial and of its last superintendent in regard to the stealing of the ores, both before and after the abandonment. The witness, Cole, testified that he had "frequently *seen* them (the Mexicans) packing off said ores from the works of said company, in sacks upon mules' backs, in March, April, and May, 1868" (*ibid.*, p. 363), and, as already noticed, Mexico's subagent, in her proceedings to subvert the award, Mr. Alfred A. Green, who was at Tayoltita in January, February, and March of that year, testifies to the same effect. But there is a mathematical demonstration of the truth of the company's claim that the best of the ores that were abandoned have been removed since the abandonment. The quantity of ore left on the patios when the property was abandoned has been estimated by some of the witnesses for the Mexican Government as high as from 10,000 to 14,000 cargas. This was the estimate of Mr. Jesus Torres (*ibid.*, p. 443).

No witness makes the quantity less than 700 or 800 tons. The umpire found the quantity to be 1,000 tons. One of the three witnesses brought up by the Mexican Government from Mexico in the recent investigation testified before the subcommittee that the pile of ore at the hacienda was "the same size the last time he saw it as it was the first time"; that "there is about 500 or 600 cargas;" that he *first* saw it when he went to work in the mines." This was in 1871, as fixed by the date of the denouncement of "Rosario," including "La Luz"—the mine referred to by the witness (Francisco Torres) which he worked in partnership with James Granger, in whose name the denouncement had been made (*ibid.*, p. 335). Jesus Torres swore that when the company abandoned the mines in March, 1868, there were from 10,000 to 14,000 cargas of ore (most of it he said was worthless rock) at the hacienda. Francisco Torres swears that in 1871, about three years subsequent to the abandonment, there were only 500 or 600 cargas left. What had become of all the rest?

The Report of the House Committee on Foreign Affairs in the Forty-ninth Congress.

A careful examination of the evidence which was submitted to the Joint Commission both on behalf of the company and the Mexican Government, and of the testimony recently taken by the subcommittee has led the undersigned to the conclusion so forcibly expressed by Representative, now Senator, Daniel, in his report from the House Committee on Foreign Affairs, of August 5, 1886, against any revision or disturbance of La Abra award. The House committee's report seems all the more impressive because it affirms the power of Congress to make provision for a judicial investigation of the award, as provided in the bill now under consideration (S. 2632), but concludes, *upon the merits*, that the award should not be re-opened. The letter-press copy-book and Exall's letters were carefully examined, and their authenticity was not ques-

tioned by the committee. The report disposes of this feature of the case as follows:

Superintendent Exall's contradictions of his testimony as revealed in his letters, now produced for the first time, are given great importance, and stress is laid upon them as imputing that his testimony was false and the claims of the company purely pretentious.

It should, however, be remembered that Exall was acting for his own interest, and that his letters conformed to what that interest seemed to require. He was a creditor of the company. He was in Mexico, and needed money, and as an inducement to the company to send him money he apparently colored the facts he recited in his newly-presented letters under the impulses of the moment, and described conditions to suit his necessities. We can not justly hold the company responsible for his course any more than we could justly hold a nation responsible for the conduct of a traitor. True, his testimony is apparently discredited, but *he is dead*, and explanations which, if living, he ought to make *are now impossible*. But, did this case rest upon his testimony, it would be nevertheless discredited, and in our opinion it should be disregarded; and, *disregarding it*, there is an *abundance of sound testimony to sustain the award*.

- The explanatory affidavit made by Exall shortly before he died, and which is now in evidence and has been considered at length in this report, was not before the House committee, the original having disappeared from the files of the Senate Committee on Foreign Relations, to whom it had been presented in August, 1882, and an examined copy not having been produced and proved till the recent investigation. (Appendix, pp. 939-941.)

The grounds on which the House committee reported against any interference with this award are summarized by Mr. Daniel as follows:

Undoubtedly some of the items of the large claim asserted against Mexico by the La Abra Company are shown to have been exaggerated and others unfounded. But this remains when all that can be reasonably said in favor of the interference proposed has been considered—that *there was ample evidence before Sir Edward Thornton that is not impugned by any new evidence to have sustained and warranted his award*; that the award did not embrace damages on account of the items that have been surcharged or apparently falsified; that that award was far below what was claimed; that it was far below in amount the damages which, in the opinion of unimpugned witnesses, the claimant's company suffered; that it did not embrace speculative damages; that the mistreatment of the company by Mexican officials and people is proved by their own testimony, and that (conceding all that by reasonable intentment the newly-discovered evidence proves) the award made had ample foundation in testimony not successfully impeached, and was not in excess of fair compensation for losses suffered according to that testimony.

The United States has never undertaken to be themselves the judge of the legitimacy of these claims, nor could they do so. They were a party to the arbitration, not the arbiter. The legitimacy of the claims was the very question submitted to the court of arbitration under the treaty; and while it is true that with an exalted and refined sense of honor, which of its own intuitive impulse refuses the fruit of wrong, the United States will interfere to arrest palpable frauds and impositions practiced by or for the benefit of its citizens. It is also true that they should not attenuate that sense of honor into a Quixotic spirit, and exert their powers to override the most sacred settlements not palpably or apparently obtained by fraud. Were this case reopened by any form of procedure, abundance of evidence would be found unimpeached in the records before Sir Edward Thornton to justify his judgment. The new case, like the old one, would be a case where truth had to be sought under a mass of contradictions, and at the end of it—whatever that end might be—there would be as much room to question the propriety of the decree as there is now.

Indeed, *such a case as this can never be ended save by the finality that belongs to adjudication*. Affidavits and counter affidavits—allegations of intimidation and extortion—recantations and recriminations and reassertions bestrew the record, and no one who reads its heaps of testimony (taken without regard to technical rules, and with no sort of discrimination between direct and hearsay evidence) can reach any other conclusion than that the details of exact truth are impossible of ascertainment, and that any decision should be predicated upon the few landmark facts which are established.

This Sir Edward Thornton evidently well appreciated. He did not discuss the minutiae of evidence, or refer to that of any single witness. He did not award the speculative damages claimed, or follow counsel in any of the niceties of their argumentation. With the spirit of a wise chancellor he looked at the facts which rose up out of

the *debris* of testimony, and upon them rested his judgment. *Those facts remain, and that judgment, in our opinion, should stand; and we fail to see that the honor or conscience of the United States is concerned to disturb it.*

Mexico had full and fair hearing. The great mass of cases was decided in her favor, and the only maxim which we conceive is now wisely applicable to this claim is that which tells us it is to the interest of the Commonwealth that litigation should cease.

The course pursued by the Mexican Government in endeavoring to impeach La Abra award.

By the treaty of July 4, 1868, providing for the settlement of claims of citizens of the United States against Mexico and of citizens of Mexico against the United States, the two Governments entered into the following agreement:

The President of the United States of America and the President of the Mexican Republic hereby solemnly and sincerely engage to consider the decision of the Commissioners conjointly, or of the umpire, as the case may be, as *absolutely final and conclusive* upon each claim decided upon by him or them respectively, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

The first installment was due upon the awards, and was paid by the Mexican Government to the United States on the 31st of January, 1877. On the 21st of November, 1876, the Mexican agent, Mr. E. Avila, addressed a communication to the Mexican minister at Washington, in which it was stated that at the meeting of the agents and secretaries of the Joint Commission held the day before, the Mexican agent had presented certain statements in writing, with a view that they should be inserted in the record of the proceedings of the day, but it was not so done, because both the agent and the secretary of the United States did not think it proper. One of these statements was a reservation of "a right on the part of the Mexican Government to show, at some future time, and before the proper authority of the United States, that the claim of La Abra Silver Mining Company was fraudulent and based on affidavits of perjured witnesses, with a view of appealing to the sentiments of justice and equity of the United States Government, in order that the award made in favor of the company should be set aside." The minister inclosed a copy of Mr. Avila's communication to Mr. Hamilton Fish, who was at that time Secretary of State, remarking "that the manifestations contained in the annexed note of Sr. Avila are in accord with the instructions he has received from the Government of Mexico." Mr. Fish replied to the minister on the 4th of December, 1876, in a letter from which the following sentence is taken:

I must decline, however, to entertain the consideration of any question which may contemplate any violation of, or departure from, the provisions of the convention as to the final and binding nature of the awards, or to pass upon, or by silence to be considered as acquiescing in, any attempt to determine the effect of any particular award.

The Mexican minister replied on the 8th of the same month that there was no intention to "put in doubt the final and conclusive character of the above-mentioned awards;" that Señor Avila had only expressed the *possibility* that the Mexican Government might at some future time have recourse to some proper authority of the United States to prove that the two claims he mentioned were based on perjury, and that, "if such an appeal should be made, it will not be resorted to as a means of discarding the obligation which binds Mexico, and that, *should it prove unsuccessful*, the Mexican Government will recognize its obligation as before."

On the 20th of December, 1876, Mr. Fish sent a dispatch to Mr. Foster, who was at that time United States minister in Mexico, acknowl-

edging the receipt of a dispatch in which he had stated that the Government of Porfirio Diaz had applied for a loan of \$500,000, and had represented that \$300,000 of the amount would be payable to the Government of the United States in the course of the next month. Mr. Fish inclosed with his dispatch to Mr. Foster a copy of a protocol, with an account of the expenses of the Joint Commission, showing a balance of \$57,499.01 in favor of Mexico, and suggested that the Mexican Government, if it chose, could deduct the whole of that balance from the first installment of the awards payable to the United States. This was done, the whole of its contribution to the expenses of the arbitration being taken from La Abra award, and the first payment was made on the 31st of January, 1877, as stated.

The contract of March 29, 1877, between the Mexican Government and General James E. Slaughter, of Mobile, Ala.

It appeared in the recent investigation by the subcommittee that notwithstanding the positive refusal of Mr. Fish to consider any question involving the finality of any of the awards, the Mexican Government on March 29, 1877, entered into an agreement with General James E. Slaughter of Mobile, Ala., in which he agreed, "for the considerations hereinafter named, to undertake the proof of fraud in the claim of the La Abra Mining Company against the Government of Mexico."

This contract, it will be seen, was entered into by and between the debtor Government of Mexico and a private citizen of the United States, about six months after the umpire's denial of Señor Avila's motion for a rehearing of the claim, three months after the aforesaid notification from Mr. Fish, and prior to any distribution.

The contract further provides that General Slaughter shall "send an agent to Mexico for the purpose of securing testimony in proof of the fraudulent character of said claim." Now, it will be remembered that the Mexican Government was informed as to every witness whose testimony had been taken in Mexico for or against the claim, and as to what each deposition contained, and that it had the whole machinery of its courts of justice to employ in the detection, proof, and punishment of perjury if any of these witnesses had perjured themselves in their depositions which were filed with the Joint Commission. Why should a citizen of the United States be employed in this business and why should he be required to send a subagent to Mexico "for the purpose of securing testimony in proof of the fraudulent character of said claim?" The contract also provided that *Slaughter* was "to pay the expenses of such agent as far as the City of Mexico, and to secure such assistance as may be necessary in preparing the evidence so obtained and presenting the same to the proper authorities of the Government of the United States." Why should Slaughter or any other citizen of the United States be employed by the Mexican Government to do such work in Mexico and to present the results to the proper authorities of the Government of the United States? If the thing was proper or allowable to be done at all should it not have been done by the Mexican Government through its regular channels of communication with the Government of the United States? And was not this the very thing that the finality clause of the treaty was intended to prevent?

In this contract with General Slaughter the Mexican Government agreed to "secure the payment by said Government of all expenses incurred by the said agent of the party of the first part after he shall have arrived in the City of Mexico, to see that all facilities are furnished by

said Government to enable him to secure the necessary testimony, and to pay by draft, payable as hereinafter specified, *one-half* of the expense incurred by the said party of the first part in the *preparation* of evidence and the *presentation* of the same to the proper authorities of the Government of the United States; provided that such expense shall not exceed the sum of \$3,000 American currency."

Under this contract, the like of which is probably not to be found in the annals of diplomacy, the compensation of General Slaughter was to be *entirely contingent upon his success* in accomplishing "the final waiver or withdrawal of said claim or any portion thereof, as the case may be, by said authorities of the United States Government." The award was for \$683,041.83. The general was to have 10 per cent. of this amount or of any part of it which the Mexican Government might not be finally required to pay. He would be entitled to more than \$60,000 if the award were entirely subverted, and his work was commenced and his contingent compensation promised before a dollar of the award had been distributed. There was no fund for paying the subagent who was to be sent to Mexico anything but "expenses," and it is reasonable to suppose that his agreement with General Slaughter for compensation was also contingent in whole or part upon the success of the undertaking. This contract, to which the committee makes no allusion in the majority report, is printed in the appendix to this report and is well worthy of careful study and consideration.

It will be remembered that the fisheries award, which was rendered at Halifax under the treaty of Washington in 1877, was attacked in the newspapers and in Congress as having been based upon fictitious evidence which had been imposed upon the Commission by fraud and perjury; and that Mr. Evarts, who was then Secretary of State, protested against the award and contested its validity upon other grounds, including the objection—fatal if sustained—that the Commissioners had not confined their inquiry or their decision within the limits of the submission, but had taken elements of value into consideration which they were not required or authorized to consider by the terms of the treaty. This protest and the earlier dispatch of Mr. Evarts to Mr. Welsh were considered and repelled by Lord Salisbury, and the payment of the \$5,500,000 was made by the United States as provided in the treaty. If between the rejection of the protest and the payment of the award the Government of the United States, by its minister at the court of St. James, had entered into a contract with a British subject, engaging his services to obtain evidence of fraud in the preparation of the proofs upon which the award was founded, and agreeing to pay him a percentage of the amount from the payment of which the United States might be eventually relieved, there can be no doubt how the proceeding would have been regarded by the British Government—especially if the British subject with whom the contract was made should, in accordance with its terms, have addressed a petition to the British Parliament or appealed to its members in promotion of legislative measures against the award.

Of course, the Government of the United States would never for a moment entertain the idea of such a course of procedure, but sometimes a clearer view of a certain line of conduct may be obtained by supposing an analogous case with a change of parties.

General Slaughter sends an agent to Mexico.

It appears from the testimony of General Slaughter that the agent whom he employed to go to Mexico, in accordance with the terms of

his contract with the Mexican Government, was Mr. Alfred A. Green—the same person who had made a deposition on behalf of the company before the Joint Commission, and had preferred a claim, unsuccessfully, on his own behalf, against the Mexican Government before the same tribunal. Previous to this adverse decision, Mr. Green, who had been much in Mexico and spoke the language fluently, had assisted General A. W. Adams in taking depositions on behalf of the company in Mexico, but afterwards quarreled with him in regard to compensation. This quarrel is described in ex-Consul Sisson's testimony before the subcommittee (*ibid.*, p. 801). General Slaughter had met Green in Mexico. How they met again in Washington and came to an agreement in this Mexican business is told by General Slaughter as follows (*ibid.*, p. 914):

Q. Do you know a man by the name of Green?—A. Yes.

Q. Did you employ him to assist you?—A. I sent Green to Mexico to get that press letter copy-book.

Q. When was that?—A. That was a short time after I signed that contract. I sent him immediately afterwards. I had never seen Green since I met him in Mexico. I had never heard of Green being in the case at all. I accidentally met Mr. Green here in Washington, and I had known him in Mexico, and known his brother very well. I walked over to Willard's with him and took a drink and asked him if he knew anything about this business. He told me he did and went on to tell me what it was; said he thought it was a fraud, and all that sort of thing.

Q. We do not care anything about that.—A. I asked him, "Green, can you get me the evidence of this thing?" He says, "Yes, I can." Says I, "Would you be willing to go to Mexico and get these papers for me?" He said, "Yes; I would." I said, "When will you go?" He said, "Any time." "Very well," says I, "I will pay your expenses and send you out there and give you so much if you will go out and get these papers." And I sent him, and he furnished the Mexican Government—did not furnish me—but in reply to my sending him out there this press letter copy-book was sent back through the Mexican Government to Washington, directly here. It did not come to me at all.

Q. Now, did you have any written agreement with Green as to what he was to do? Mr. FOSTER. I object. I think we have got to a point where we must object. * * *

Green went down to Mexico on this mission, and while he was in San Francisco he met Capt. Charles B. Dahlgren and told him that Adams had boasted that "he had obtained Dahlgren's signature (to his deposition in behalf of the company) by the use of a good round sum of gold." Dahlgren seems to have believed that Adams, who was largely interested in the award, had made such a statement as that, and he thereupon wrote the letter to Mr. Robert Lyon (Lines) of November 12, 1877, which has been printed in the "new evidence offered by Mexico" as proof that Dahlgren's deposition had been "forged." Dahlgren was examined by the subcommittee, and his examination will be alluded to hereafter. Counsel for the claimant offered affidavits to prove that Green had endeavored to suborn perjury in Mexico in his employment under his contract with General Slaughter, for the purpose of impeaching this award, but the offer was refused by the subcommittee on the ground that the affidavits were *ex parte*. To this, counsel replied that the affidavit of William R. Gorham of March 23, 1872, alleging that Green did not sign his deposition which was submitted to the Joint Commission on behalf of the claimant, was *ex parte*, and that it had not been followed up by the Mexican Government in producing Gorham or Green before the subcommittee, and that it was not fair, after having made such a charge in the formal presentation of its case to the Department of State and to Congress, and having had the benefit of the consequent suspicion, to leave it in that shape. It appears, however, that before he entered into the service of the Mexican Government, under the Slaughter agreement, his character had been assailed by the agent of Mexico in his motion before the umpire for a new hearing of the claim. In his

attack upon the company's witnesses (to which the umpire rather drily alludes in his denial of the motion) Señor Avila remarked (Ex. Doc. No. 103, House of Representatives, Forty-eighth Congress, first session, p. 90):

Neither can be considered as a respectable witness Alfred Green, the pretended liberator of Mexico, who tried to defraud that nation by presenting a fraudulent claim.

General Slaughter employs an attorney in Washington who employs detectives in New York.

While Green was trying to liberate Mexico from paying all or part of La Abra award, under his subcontract with General Slaughter, by collecting "newly-discovered evidence" in the vicinity of the mines, another subagent of General Slaughter was at work for the same purpose in this country. This was Mr. Robert B. Lines, who testified before the subcommittee as to his employment by General Slaughter (Appendix, p. 922). And General Slaughter also testified that he "employed Mr. Lines soon after signing the contract" (*ibid.*, p. 914). Thomas J. Fisher, a New York detective, testified before the subcommittee that he was employed by Mr. Lines in that city early in the year 1878 (*ibid.*, p. 879) "to make the acquaintance (of Exall) and find out if possible from Exall what the facts were; take means to do that."

In his direct examination Fisher testified (*ibid.*, p. 882) that he might have given Exall to understand that if he would unswear what he had sworn to before the Commission, it would be of advantage to him; but that "General Slaughter was very anxious to obtain these facts for the purpose of having Exall indicted." Fisher said it was a pretty hard thing for him to say what his instructions were; that he did not remember of any particular instructions given him at the time (*ibid.*, p. 884):

Q. Were you authorized to offer him any thing?—A. I never was. Of course I reported and told General Slaughter what he had said and the amount that was mentioned. That was talked over, and General Slaughter distinctly said to me that he did not want to negotiate for a thing, or did not want any proposition made, unless he knew just exactly what were in his possession—find out what he had in his possession.

Q. "The amount mentioned." By that do you mean the \$25,000?—A. Yes.

Q. Mentioned by Exall?—A. Mentioned by Exall and Kittelle both.

Q. Was there any formal offer on the part of Mr. Exall or Mr. Kittelle in relation to the sale of documents; if so, what was it?—A. Yes, there was on the part of Exall.

Q. Please state what it was.—A. Mr. Exall proposed—

Mr. KENNEDY. Just say what he said.

The WITNESS. Well, Exall said that if there was an offer made of \$25,000 for these papers and documents that he had he would produce them, or that was what he said in substance.

Q. What did General Slaughter say to you, if any thing, as to any expectation of getting evidence out of Exall's mouth to convict him of perjury?

The WITNESS. I don't remember that General Slaughter gave any instructions to get it in any particular way. The object was to get it. I don't remember whether—

Q. To get evidence that would convict Exall of perjury?—A. Yes.

Q. Now, Mr. Fisher, in these conversations which you had with Exall or Kittelle did you say any thing to either of them as to any protection to be afforded to Exall from criminal prosecution?—A. No, sir; I don't remember that I ever did. I don't think I ever did.

Mr. Fisher also testified on his direct examination (*ibid.*, p. 823) that—

The first intimation of documents came from Exall himself. The first that I ever heard in relation to there being any papers or valuable documents in existence came from Exall himself.

S. Doc. 231, pt 2—66

But being cross-examined with reference to a time prior to his acquaintance with Exall, Fisher testified as follows (*ibid.*, p. 887):

Q. Now, can you tell us substantially what it was that Mr. Lines said to you at that first interview; not the very words, but the substance of it?—A. Well, I remember that he spoke to me in relation to this claim, and that an effort was to be made to set it aside or open it, and that they wanted to have evidence on that point; secure evidence of this award being an unjust one.

Q. Now, what did he say, if any thing, about Exall?—A. Well, my impression is that he told me that Exall—at least, I know that he told me that Exall had been connected with this company as an officer or secretary; that he held a position in the company. I forget exactly what it was, but that he held a position in the company and was liable to have books and papers and documents in relation to it that would show the exact state of affairs; the exact amount of the loss that had been sustained by these parties.

And, being pressed in regard to General Slaughter's alleged purpose of having Exall indicted for perjury, Fisher gave the following testimony (*ibid.*, pp. 888, 889):

Q. Now, what steps, if any, were you instructed to take to show that Exall's testimony was perjury?—A. Well, as I remember it, my instructions were directed particularly toward getting these papers and documents that he had.

Q. Well, how did you expect to prove Exall's alleged perjury by documents in Exall's possession that you wanted him to turn over to you?—A. Well, I had not any knowledge of what these papers and documents were; he never stated what they were, except he stated they were very important and very valuable to the party that General Slaughter represented.

Q. What did you say to Exall in regard to the testimony that he had already given?—A. Well, I have not any recollection that I ever spoke to Exall in relation to any testimony he had ever given. I don't think I did. I don't know that there was—I am almost positive there was not anything said on that point, whether Exall knew that I knew that he had testified I have no knowledge.

Q. Do you mean to say that there was never anything said by Exall to you or by you to Exall in regard to the position in which Exall would place himself by giving you documents or any testimony showing that he had previously perjured himself?—A. Well, I believe there was—my recollection is that there was something said upon that point, that the documents that he had in his possession would put him in a false position. There was something said upon that, I remember, but what it was exactly I can not recall.

Q. Well, how did you meet that objection?

The WITNESS. Well, it would be pretty hard for me to say what I told him. I was liable to tell him a good many things for the purpose of getting evidence out of him.

Q. Certainly. Now, I ask you what you did tell him?—A. Well, I could not state exactly what I told him.

Q. Well, give us your best recollection?—A. Well, I could not tell you from memory what I told him. I have not any doubt that I told him it could be arranged satisfactorily, so that no harm would come to him. I have no doubt I told him that. I have no doubt that I did.

Prior to Fisher's examination George W. Kittelle had testified before the subcommittee that he had consented to be introduced to the detectives, Fisher and Weed, in New York, at the request of Mr. Ely, for the purpose of finding out what their object was in approaching Exall, and who were their principals; and Kittelle had produced a letter written by Fisher to Exall while these negotiations were in progress. When Fisher was examined he did not know that this letter was in evidence, and, in his cross-examination, he was at first quite positive that he had never been notified by Mr. Lines or General Slaughter, or otherwise informed, that the Mexican minister, Mr. Zamacona, was expected to be

present at a conference on this business in New York. Fisher's letter to Exall is as follows (*ibid.*, p. 774):

NEW YORK, February 4, 1878.

DEAR SIR: The Mexican minister is expected to arrive in this city either to-morrow or Wednesday, and I should like to see you *before I see him*. Will you please let me know what time and place it would be convenient for you, and I will call upon you? Please address me by bearer or in care of the door-keeper of the Broad street entrance of the Stock Exchange.

Yours, respectfully,

THOMAS FISHER.

CHARLES EXALL, Esq.

After reading this letter Mr. Fisher was examined as to his purpose in writing it, as follows (*ibid.*, p. 908):

Q. Exactly. In other words you wanted to get a little more definite information in regard to these papers before you communicated with the Mexican minister as to the \$25,000. Is not that so?

THE WITNESS. I say that I did want to get from Exall information before I communicated about the \$25,000.

By Mr. WILSON:

Q. Well, you had already received from him the statement that he had these papers?—A. Certainly.

Q. You had already received from him the statement that he thought they were worth \$25,000 to the Mexican Government?—A. Yes, that he thought so.

Q. That he claimed they were worth that; you had received that?—A. Yes.

Q. But you had not received any definite information as to what the papers contained?—A. I had not.

Q. But you had communicated before this time to Mr. Lines or to General Slaughter what Exall had said to you about these papers?—A. Undoubtedly.

Q. Yes, you had communicated that to General Slaughter and Mr. Lines?—A. Yes.

Q. Very well; but you were not able to communicate to them what the papers contained or give them very definite information as to what they were?—A. No, sir.

Q. And you wanted to get a further interview with him in respect to these papers?—A. Yes.

Q. And so you wrote him this letter; is that it?—A. Well, I don't remember exactly what the object was in writing that letter to him, but it was something in relation to that.

Q. Well, you wrote him this letter after you had received all this information?—A. From him?

Q. Yes.—A. Undoubtedly.

Q. And after you had communicated what you had received from him to Mr. Lines and General Slaughter?—A. Yes.

Q. Now, you say to him that "the Mexican minister is expected to arrive in this city either to-morrow or Wednesday, and I should like to see you *before I see him*," and you say that when you wrote that letter you wrote it with a purpose of getting more definite information about these papers?—A. I did.

Q. We will leave that right there. Now, will you tell us who paid you for your services in this matter?—A. Mr. Lines.

Mr. Lines's negotiations with Mr. Elder.

Mr. Lines at this time was also negotiating with another former employé of the company, Mr. A. B. Elder, for documents which he claimed were in his possession, and Mr. Elder had sent a letter which he had received from Mr. Lines to General Bartholow, who, it will be remembered, was one of the company's stockholders, and its first superintendent at the mines. In this letter, which is dated at Washington, January 17, 1878, Mr. Lines alluded to the negotiations which he was conducting, through the detective Fisher, with Exall in New York, as follows (*ibid.*, p. 635).

Exall is in New York. I have not his address, but my agents are in communication with him, and he shows, as I am informed, a disposition to purge himself of the false swearing into which he was undoubtedly led by older rascals.

The expression—"to purge himself"—used by Mr. Lines at the time, shows that he and his principals—General Slaughter and the Mexican minister—were trying to induce Exall to "unswear" what he had sworn to in his depositions on behalf of the company before the Joint Commission, and swear to a different state of facts. In his own testimony and in his examination of Mr. Elder, Mr. Lines was careful to discriminate between documentary evidence, which he admitted he would have advised the Mexican Government to purchase, if of the kind desired, and one's own affidavit, which he held could not properly be purchased. He also said that when he wrote to Elder that Exall was showing a disposition "to purge himself," he did not use the expression in its technical sense. But Mr. Lines's unstudied statement in his contemporaneous letter to Elder, taken in connection with Mr. Kittelle's positive testimony on this point (*ibid.*, pp. 768, 772, 773), and the probabilities indicated by the situation, would show conclusively that it was new testimony from Exall himself, under oath, as well as any books or papers of the desired character he might possess, that the Mexican Government, by its agents, was trying to obtain. On this point Mr. Lines testified as follows (*ibid.*, p. 928):

Q. Now, you go on to say, referring to Exall: "And he shows, as I am informed, a disposition to *purge himself* of the false swearing, into which he was undoubtedly led by older rascals." Who was it that gave you that information?—A. Mr. Fisher. He informed me that Exall claimed to have papers, documents, and to be willing to furnish them.

Q. No; but you say that "he shows a disposition to *purge himself* of the false swearing." What did you mean by that?—A. Well, I did not use that in the technical sense. I was not corresponding with a lawyer, and I meant merely that Exall showed a disposition, as I was informed, to furnish testimony which would show the truth of the matter.

Q. Well, do I understand you that if a man who had sworn falsely was willing to sell documents in his possession for a good round price that you would call that *purging himself*?—A. I would not call it so in a conversation between you and me, but in a letter of this kind I might do so. That was all I meant, at least, by the expression.

But Mr. Elder, who was produced before the subcommittee as a witness on behalf of the Mexican Government, had written to General Bartholow, inclosing an alleged "verbatim" copy of a portion of another letter received by him from Mr. Lines, which reads as follows (*ibid.*, p. 636):

[Copy of a letter from R. B. Lines to A. B. Elder, copied by A. B. Elder].

Verbatim.]

WASHINGTON, D. C., February 17, 1878.

Your evidence backed by these memoranda in view of your position ought certainly to be conclusive. Sundell said in Sept. the ores were all there. The lobby in behalf of the Co. finding itself unable to suppress investigation is now trying delay it with more success. Just when it will commence is still uncertain. Let me know what you will furnish the memoranda *sworn to* by you and Exall letter for.

Exall is in N. Y. and I think in a few days we shall have his papers. My agents are in communication with him in N. Y., and he is weakening very rapidly. I shall be glad to forward to him anything you may offer. I do not know his address, as everything is done through my agents.

There is much in the letter not in this.

[In pencil:]

Yours,

R. B. LINES.

A. B. ELDER.

I have an offer to go to China. Silver mines there. Do you want any stock in the Co.? The prospects are good. May be so; dividends.

It is only fair to Mr. Lines to say that in his testimony before the subcommittee he said (*ibid.*, p. 930):

These words, "*sworn to by you*," I am very positive, were not in any letter I ever wrote to Mr. Elder.

In one of his own letters to General Bartholow, Elder states plainly what the Mexican authorities wanted from him and what they had offered him for it. He had fixed the price at \$10,000, and the following was evidently intended to draw out a bid of something over \$8,500 for his wares (*ibid.*, p. 639):

LONE PINE, CAL., April 5, 1878.

General BARTHOLOW:

DEAR SIR: Yours of the 24th ult. come duly to hand and contents noted. I sent to you a few days since a postoral card asking the return of Mr. Lines's letter. If you have not already started it you need not be in a hurry about doing so. In a letter from Washington a few days since they, through an agent, have offered \$1,500 *less than I asked* them; *they want my deposition* and the letter and memoranda, and I think I will accept, as I have been losing in the sheep business for the last year.

As for the Co. for China, it is not perfected yet. I will let you know more of it soon.

Hoping, yours truly,

A. B. ELDER.

Elder's letters to Mr. Lines had been printed in the "New evidence offered by Mexico" with certain insinuations and charges against the company, the falsity of which was shown by Mr. Elder's cross-examination before the subcommittee, as follows (*ibid.*, p. 593):

Q. Now, I wish to direct the attention of the witness to the statement of the Mexican Government on page 428 of Ex. Doc. 103, under the title of "New evidence offered by Mexico." I will read you a sentence or two:

"Herewith are transmitted the originals of certain letters addressed by A. B. Elder, the assayer for La Abra Company, to the Mexican minister and Mr. Robert B. Lines. Mr. Elder desired to find a market for the knowledge which he possessed of the affairs of La Abra Company. He was informed that if he had any documents, clearly authentic, bearing upon the case, *there might be room for a negotiation*, but that affidavits were not regarded as purchasable. Mr. Elder claimed to have such papers, and was asked to produce them and name his price. This, as his letters show, he failed to do, and the correspondence with him was dropped. He appears, however"—And this is the point to which I invite your careful attention—"He appears, however, to have *found a market* for the letters addressed to him in reply by Mr. Lines." Now, I want to ask you whether it is a fact that you ever found any market anywhere for the letters addressed to you by Mr. Lines?—A. *Never in the world, sir.*

Q. Is there the slightest foundation in fact for the assertion of the Mexican Government which I have just read to you? Did you ever offer any of Mr. Lines's letters for sale to anybody?—A. *Never.*

Q. Did you ever receive anything for any of Mr. Lines's letters from anybody?—A. *Not one cent.*

Q. Did anybody ever offer to pay you one cent for any of Mr. Lines's letters?—A. *Never.*

Elder not only contradicted thus explicitly the intimation in Mexico's "New evidence" that he had found a market for the letters addressed to him by Mr. Lines, but he also testified to the falseness of the charge which the Mexican Government had made against the company as follows (*ibid.*, p. 595):

Q. Now I invite your attention to another sentence in your letter of April 8, 1878, to Mr. Lines: "Through some party, to me unknown, I am offered a good show to go to China to look after a silver mining company's affairs." I ask you who it was that made you that offer?—A. Well, I don't know who it was that made me that offer.

Q. I ask you whether you have any reason to suppose that it was made to you by any officer, or other party interested in La Abra Company?—A. *I have no reason to believe so.* Such propositions were often made to me.

Q. It was nothing uncommon?—A. Nothing uncommon.

Q. You had been mining how long?—A. Ever since 1853.

Q. Now, I want to invite your attention to the statement made by the Mexican Government in regard to that China business, on page 430 of that same document, No. 103, under the title of "New evidence offered by Mexico." I now read to you, Mr. Elder:

"*Either Mr. Elder has exhausted La Abra treasury, or else the persons conducting the affairs of that company have swindled him, as they did their other witnesses, by failing to carry out their contract and send him to China.*"

Now, I ask you whether there is the slightest foundation in fact for the allegation that you had any contract with any officer of La Abra Company, or with the company itself, to go to China, or for the allegation that they swindled you by not sending you there?—A. *None whatever.*

Q. Can you think of any reason for such a statement being made?—A. *I can not imagine any. I certainly never received any such proposition from any member of La Abra Company.*

It will have been observed that the "offer to go to China" was communicated by Elder in his letter of February 17, 1878, to General Bartholow (*supra*), and not by General Bartholow to Elder. It is certainly quite a remarkable feature of this recent investigation by the subcommittee that one of the most serious charges made against the company by the Mexican Government in its formal presentation of its case to Congress and the Department of State, should be proved false by one of its own witnesses, and that witness of all men necessarily best informed as to the fact.

It seems clear that if Elder's memorandum book had really contained what he said it did, he would have sworn to its correctness and sold it to the Mexican Government, but he never produced it, or any other papers, although he received the following considerate assurance from Mr. Lines (*ibid.*, p. 635):

You may rest assured that there is no disposition to take advantage of your voluntary offers or to use your information which is of unquestionable value, to your prejudice.

Elder failed in his efforts to use Mr. Lines's letters as an inducement to General Bartholow or La Abra Company to enter into competition with the Mexican Government for what he had to sell, and he had shown himself so evidently purchasable, or Mr. Lines was so sure that he had nothing worth buying, that in preparing the statement of the "new evidence offered by Mexico," Mr. Lines dismissed him, but nevertheless printed his letters and availed himself of the occasion to make a charge of the most infamous conduct on the part of La Abra Company, which, according to the Mexican Government's own showing before the subcommittee, was without any foundation or color of excuse.

After a lapse of ten years the Mexican Government seems to have thought that something could still be made out of Elder, and he seems to have thought that something could still be made out of the Mexican Government. He was subpoenaed on behalf of the Mexican Government by the subcommittee on the 14th of January, 1889, in a telegram from the Sergeant-at-Arms informing him that he would be allowed mileage at the rate of 5 cents per mile each way and \$3 per day while detained in Washington (*ibid.*, p. 622). He responded immediately:

I must see money, and *more than you offer*, before I leave home.

The Sergeant-at-Arms replied:

You will be allowed [no] more than the law allows, and the United States Senate commands you to come.

To which Elder responded:

I am *not of the kind* that works for \$3 per day, nor will I leave here without money to pay all expenses liberally, and I will come near *having something to say about it.*

This was January 16. The same day he telegraphed again:

Send \$500. Will leave on 20.

Elder seems to have been in some confusion of mind, for he testified on cross-examination, in explanation of his telegrams, that he did not know which side had subpoenaed him, and that before reporting to the

Sergeant-at-Arms he went to see the company's counsel in Washington. He thought that perhaps it was the company that wanted him.

As a sample of the manner in which Mexico would impeach Sir Edward Thornton's award in this case, if the Senate bill under consideration should pass, and the Court of Claims should take jurisdiction, some extracts from Elder's cross-examination are appended (*ibid.*, p. 625):

Q. Did you report to the Sergeant-at-Arms when you arrived in Washington?—A. I did not.

Q. How long were you in Washington before you reported to the Sergeant-at-Arms?—A. I got in Friday, after 9 o'clock.

Q. When did you report to the Sergeant-at-Arms?—A. Monday morning. I was sick *Saturday and Sunday*; did not get out of the hotel.

Q. What day was it that you were at Judge Shellabarger's office?—A. *That was Saturday morning.*

Q. Now, will you swear that you did not say to me, in the presence of another person sitting in the same room, that you had put a value of \$10,000, during the time that you were corresponding with Mr. Lines, upon the memoranda and the letter mentioned in that correspondence?—A. I believe I said so to you, and I consider that if the memoranda was worth anything it was worth that to a party—

Q. Why did you come to Judge Shellabarger's office before you reported to the Sergeant-at-Arms?—A. I supposed from that telegram that La Abra Company caused my being summoned here.

Q. Did you not have at that time a letter in your pocket dated December 28, 1888, from the consul-general of Mexico at San Francisco, informing you that your presence was required here as a witness?—A. I did.

Q. Did not you show that letter to Mr. Kennedy in the conversation that took place at Judge Shellabarger's office?—A. In your office?

Q. Well, it was my office; put it that way.—A. Judge Shellabarger referred me to you. I supposed from the nature of the telegram that it was—

Q. The question is, did not you show to Mr. Kennedy in his office the letter now in evidence addressed by the consul-general of Mexico at San Francisco to you, dated December 28, 1888, informing you substantially that your presence would be required here as a witness in this La Abra investigation?—A. I presume I did.

Following is the letter from the Mexican consul-general at San Francisco, which, it will be observed, is dated about three weeks earlier than the subcommittee's subpoena (*ibid.*, p. 573):

[Correspondencia Particular Del Consul-General De Mexico. Alejandro K. Coney, 604 Clay street San Francisco, Cal.]

DECEMBER 28, 1888.

DEAR SIR: It being necessary, in the interest of justice, that your testimony be heard by the committee of Congress in the matter of the "Abra" claim, your expenses to Washington and back will be paid, as also during your stay at the capital. Will you kindly answer at your earliest convenience, and oblige,

Yours very truly,

A. K. CONEY.

MR. A. B. ELDER,
Santa Clara.

Some light is thrown upon Elder's motives and expectations in the subjoined passage from his cross-examination (*ibid.*, pp. 624, 625):

The CHAIRMAN. Well, proceed, Mr. Kennedy, if you please, to lay your predicate.

By Mr. KENNEDY:

Q. I want to ask you, if you please, Mr. Elder, whether on or about the 19th day of January—

Mr. FOSTER. The present month.

By Mr. KENNEDY:

Q. Whether on or about the 19th day of January, 1889, while you were crossing the bay in California on a ferry-boat you met a man by the name of Alexander S. Gillespie, or any man at all, to whom you said that you had been subpoenaed to Washington City to testify in reference to some old claim between American capitalists and the Mexican Government; that you were an assayer of minerals, etc.; that the claim was about some mines in Mexico; and whether you further stated that the

Mexican Government had promised you \$50,000 if you would give evidence favorable to them. Also, whether you said that unless the other party gave you more money you would likely give the kind of evidence required?—A. I met a man on the ferry and we were talking. He said he was a blacksmith; said he had been here, and I told him. He asked me which way I was traveling, and he had been to San José hunting a job as a blacksmith. I told him I was coming to Washington, and I said I had been summoned there by telegraph of the Sergeant-at-Arms of the United States Senate in an award claim of some citizens of the United States against the Mexican Government. He remarked, "Is there much money depending?" I said, "Yes, I think there is nearly \$1,000,000." "Well," he says, "they ought to pay you well to go on such a trip as that." Now, as to my saying that the Mexican Government had offered me \$50,000, that I never said. There was talk that they *ought* to pay me for a trip of that kind. I said, "*I presume they will pay me.*" I don't know, but the Sergeant-at-Arms says I will get 5 cents a mile. It will be almost like riding on the boom to get there and back." I says, "If anybody gives me anything it *will be voluntarily.*" I says, "I can not demand anything for my evidence." What I know is simply what I knew at the mill, and the thought of getting any stipulated amount has never entered my head.

Q. Did you say anything about the other party?—A. La Abra?

Q. The company?—A. Not a word that I recollect of; not one word.

The letter referred to in the foregoing extract had been received by Mr. Sherman, chairman of the Committee on Foreign Relations, and handed to Mr. Morgan, chairman of the subcommittee. The letter is herewith appended, with the agreement of counsel in regard to it (*ibid.*, pp. 687, 688):

The CHAIRMAN. It is agreed by counsel that if Alex. S. Gillespie were present and under oath, he would make the statement in regard to the conversation with A. B. Elder, which is contained in the following letter, and the presence of Gillespie is by agreement dispensed with.

The letter is as follows:

OAKLAND, CAL., January 19, 1890.

To the honorable Chairman Committee on Foreign Relations, Washington, D. C.:

To-day while crossing the bay here on ferry-boat I met a man who said he had been subpoenaed to Washington City to testify in reference to some old claim between American capitalists and the Mexican Government; that he was an assayer of minerals, etc., and the claim was about some mines in Mexico; and stated further that the Mexican Government had promised him \$50,000 if he would give evidence favorable to them; he also said that unless the other party gave him more money that he would likely give the kind of evidence required. He lives at San José, Cal., and will be in Washington about January 26. He is paying his own expenses to Washington for the present, and expects to have a private interview with Señor Romero, the Mexican minister, as soon as he arrives in Washington. Perhaps this may be of service to your committee, as he said both sides subpoenaed him.

Hon. G. R. Tingle (chief seal island agent, Alaska), at present in Washington, D. C., knows me and you can refer to him about trustworthiness.

Respectfully,

ALEX. S. GILLESPIE,
752 Brush street, Oakland, Cal.

Dahlgren's examination.

In availing itself of the opportunity afforded by the Senate to show that La Abra award should be reopened, the Mexican Government called but one of the witnesses whose depositions had been filed with the joint commission. This was Captain Charles B. Dahlgren, whose deposition on behalf of the company had been taken at Mazatlan before United States Consul Sisson on the 18th of September, 1872. Five years afterwards—in November, 1877—Captain Dahlgren was put into communication with Mr. Robert B. Lines by Mr. Alfred A. Green, who, it will be remembered, had been sent to Mexico by General Slaughter, under his contract with the Mexican Government, "for the purpose of securing testimony in proof of the fraudulent character of said claim." Green met Dahlgren in San Francisco, and made a statement to him,

some account of which will be found in Dahlgren's testimony before the subcommittee (*ibid* pp. 712-715). After his interview with Green, Dahlgren wrote the following letter, which has been printed as part of the "new evidence offered by Mexico" (Ex. Doc. 103, p. 285), and may be found in the appendix, p. 644:

SAN FRANCISCO, CAL'A, Nov. 12, 1877.

MR. ROBERT LYONS,
U. S. Senate P. O., Washington:

SIR: I have good reasons for knowing that the testimony under my signature, as offered by A. W. Adams in the La Abra case or claim, has been perverted, and is therefore fraudulent, and should be treated as such.

My testimony was taken in rough notes and left for him to copy or fill in over my signature on a clean sheet, as I was called off on important business.

I know now that said testimony has been perverted and by said A. W. Adams.

Very truly,

C. B. DAHLGREN.

My address here is: Capt. C. B. Dahlgren, Pacific Refining and Bullion Exchange, cor. Brannan 7th, S. F.

P. S. I understand said A. W. Adams boasted he had obtained my signature by the use of a "good round sum of gold." Advise me how I can bring him before a court to substantiate said statement.

C. B. D.

I refer to Gen. Sherman and Rev. B'y'n Sunderland.

Dahlgren's interview with Green and his opinion of him appear in his testimony before the subcommittee as follows (*ibid*, pp. 644, 645):

The WITNESS. I was informed that I had testified in the Abra case, and that my testimony had been purchased for a "good round sum of gold."

By the CHAIRMAN:

Q. Who was your informant?—A. A. A. Green.

Q. Where does he live?—A. He is living a great deal in the Republic of Mexico.

Q. Was he your acquaintance?—A. He was an acquaintance of mine; yes, sir.

Q. A man whose opinion you respected?—A. I knew nothing against him. He had been the original owner of the Candalaria mine, of which I had been the superintendent, and therefore I had been brought into business contact with him.

Q. In consequence of that information what did you do?—A. He then told me *what* my testimony had been, and asked me if that was the case. I was very angry, and I then put myself into communication with Mr. Lines and wrote that letter to him.

At that time, Green was in the employment of General Slaughter under his contract with the Mexican Government. Green had probably examined Dahlgren's deposition in Washington; at all events, he pretended to be familiar with its contents, and undertook to tell Dahlgren what his "testimony had been." There is no evidence that Green stated the contents of Dahlgren's deposition to him correctly, or that Adams had ever said he had obtained the deposition from Dahlgren by bribery. There is not the least likelihood that Adams ever made such a statement, or would have made it, even if it had been true, for the award in favor of La Abra Company had been rendered only recently, and Adams was largely interested in it, and aware of the opposition to its payment by the Mexican Government, and he would, therefore, have been the last man to say anything reflecting upon its integrity. But, of course, Green's representations were calculated, as they were doubtless intended, to make Dahlgren angry and eager to prevent his deposition from being of any further service to Adams or the Company.

The measures he would be likely to pursue when in such a frame of mind can be imagined from his conduct as disclosed in the course of his examination before the subcommittee. It will be remembered that Green as well as Dahlgren had a grudge against Adams, and that

Green had besides a pecuniary interest under his agreement with Slaughter in making Dahlgren hostile to the company and the award.

Great importance is given to Dahlgren's testimony before the subcommittee by the fact, already mentioned, that he was the only witness produced before the subcommittee by the Mexican Government of all the witnesses whose depositions were filed with the joint commission; also by the fact that it was on his letter of November 12, 1877 (*supra*), that the Mexican Government based its charge that testimony had been "forged" by Adams in favor of the company's claim; and this importance is enhanced when it is remembered that Dahlgren's examination may fairly be regarded as showing the best that could be done in the way of impeaching the award if the question of its validity should ever be submitted to the Court of Claims as proposed by Mr. Morgan's bill. In this view it is considered proper to examine Dahlgren's testimony before the subcommittee at considerable length.

A critical examination of Dahlgren's letter shows that when it was written—more than five years after his deposition was taken at the United States consulate at Mazatlan—he had forgotten at what length he had been examined, and supposed that a single sheet would have contained his deposition. "My testimony," he says in his letter, "was taken in *rough notes*, and left for him to copy or fill in, over my signature, on a *clean sheet*." The original deposition on file in the Department of State contains eight sheets, written on both sides, and signed by Dahlgren near the middle of the sixteenth page. He admits his signature to be genuine, and his testimony shows that his answers to Adams's questions (which answers were not written out by Adams but by Peña) were quite voluminous. These questions and answers which Dahlgren in his letter calls "rough notes," were, he says, corrected by him—interlined and crossed out to such an extent as to make them unfit for use as a deposition. A fair copy was therefore necessary, and Dahlgren's testimony shows that there was abundance of time for making it, for he testifies that he went to the consul's office "early in the morning," and was there on that business until 1, 2, or 3 o'clock in the afternoon. (*Ibid.*, p. 650.)

The idea that a man of his intelligence, holding the position of superintendent of the Durango Mining Company and consul of the United States, should leave his "testimony" to be "filled in," *over his signature*, "on a clean sheet," in support of a claim for such a large sum against the Government to which he was accredited in his consular capacity, seems preposterous, and if anybody but himself had made such a charge against him it would have seemed too improbable for belief. All the presumptions would have been against it. This is how it seems to have struck Mr. Lines, for when he was asked in his cross-examination whether he had advised Dahlgren, as requested in his letter, how Adams could be brought before a court to substantiate his charge of bribery, he replied (*ibid.*, p. 927):

I regarded the statement in Dahlgren's letter as a *very extraordinary one*, and I thought perhaps an *improbable one*; that he had allowed his testimony to be taken in rough notes in that manner, and I thought that Mr. Dahlgren was much more concerned in the matter than the Mexican Government was, and for that reason I held no further communication with him at all, I believe, after sending him that telegram.

A careful examination of Dahlgren's testimony furnishes the strongest proofs of the falseness of his letter. Before he was examined in the subcommittee he had inspected his deposition in the State Department, where it is filed with the other records of the Joint Commission,

and he had seen that the original draft or "rough notes" could not have been copied or filled in "on a clean sheet." So when he came before the subcommittee he testified that his deposition "filled up a number of sheets, and when the chairman asked how many, replied: 'Oh, quite a number; there may have been a dozen or two dozen sheets, a large number of sheets;'" and he continued (*ibid.*, p. 647):

I then said: "General Adams, allow me to read over those papers." He said: "They are your answers as written down by my secretary, and it is long; it is not necessary; have you no confidence in me?" I said: "I wish to see those papers, and unless I do they can not go out of this room; I must see them."

Dahlgren seemed to have forgotten that the "papers" were of no use to Adams, because, at that time, they were neither signed nor sworn to. Dahlgren continues:

He then handed me the sheets, and I read them over. I then said: "General Adams, those are not the answers as I gave them to you, sir, and I will not allow that to pass for evidence." "Well," he said, "scratch it out or erase it, as you see fit." That was done, and then I said: "Now, those answers are satisfactory to me, and I will sign them," and I did sign them. He then said: "That is not fit to hand in as testimony, all scarrped up in that manner." I said: "You had no business to write those answers in that way."

The witness seemed to have forgotten that his answers had not been taken down by Adams, but by Peña. Dahlgren continued:

And I said, "Well, I am on the way to San Dimas, and I haven't time to stay longer." I then called to Mr. Sisson, who was consul to Mazatlan while I was United States consul at Durango—

By Mr. FOSTER:

Q. At that time?—A. At that time; yes, sir. I said to Sisson, "I will sign a blank sheet of paper and put it in your possession as consul, as between two consuls; you are to transcribe these notes and retain the original, and hand that signature with the transcribed sheets ahead of it to General Adams as my testimony." Sisson said he would do it. I then jumped on my mule and rode away, 170 miles back to San Dimas.

It will be observed that Dahlgren said that he signed the original deposition or "rough notes" after his corrections had been made, and, in addition, signed a blank sheet to be attached to the new copy which was to be made by Consul Sisson. Next day, his direct examination still continuing, the chairman inquired (*ibid.*, p. 677):

Q. Did you affix your signature at all after that single blank sheet of paper; did you sign your name twice?—A. No, sir; I don't think I did, because it was in such bad shape that I would not.

Dahlgren did not seem to be able to state the same circumstance twice in the same way. He was greatly troubled about his oath—a difficulty which he evidently had not anticipated. When asked whether he was sworn (*ibid.*, p. 647), he said, "I do not recollect, sir; I do not recollect whether there was any formality in swearing me or not." Asked again after a considerable interval (*ibid.*, p. 650), whether he had any clearer recollection than he had already stated as to whether he was sworn by the consul, he replied, "I don't recollect as to that." But in certain small particulars, not affecting the sense of his deposition, his memory was most wonderful. He seemed inclined to deny that he had said anything contained in his deposition—the mere fact that it was there seemed to arouse his antagonism. For example, his deposition made him say, "The late Rear-Admiral John A. Dahlgren was my father." In his testimony before the subcommittee (*ibid.*, p. 651), he said, "I never said that. To the question, 'Are you or are you not a son of the late Admiral Dahlgren, of the United States Navy,' my reply was, 'I am.'"

An examination of the question in the deposition shows that his consular position as well as his parentage was inquired into, and while it might have been properly answered by the words, "I am," instead of the answer contained in the deposition, namely, "Yes; the late Rear-Admiral John A. Dahlgren was my father, and I hold the position suggested in the question, and I am so recognized by said authorities," the two answers mean exactly the same; and it is remarkable that after the lapse of seventeen years Dahlgren could have been so positive that he made the one answer rather than the other.

Recurring again to the question whether he was sworn, Dahlgren said (*ibid.*, p. 677):

A. I recollect when I wrote my name. I have seen the document and recognize my name. I handed it to Sisson. I said, "Consul Sisson, I put this in your charge, to have this transcribed and written—the rough notes;" supposing of course, as a colleague of mine, as one consul for another, that he would act for me. I had just received information that imperatively called me away. It was absolutely necessary to go. I could not delay. It was not my business to tell them that (he had testified previously that he did tell them that). *When I took this to him* he said, "You swear that this is the truth, the whole truth, and nothing but the truth?" I said, "I do."

By Mr. KENNEDY:

Q. Alluding to the blank sheet of paper?—A. Alluding to the testimony I had given.

Q. And you signed a blank sheet of paper and handed it to him?—A. That is it.

The CHAIRMAN. I will have to take this myself.

Q. You now state that you were sworn?—A. Yes; that I was sworn *at first*.

Q. *No; you state that you were sworn.* When the consul that administered that oath to you did so, did he have in his hand or did you have in your hand a paper to which that oath applied?—A. No, sir.

In his cross-examination the same subject was revived. (*Ibid.*, pp. 706, 707.)

By Mr. WILSON:

Q. Were you sworn on that examination?

By the CHAIRMAN:

Q. Was an oath administered to you?—A. No: that was administered to me *at the beginning*.

Q. Well, was there at the end?—A. I have stated in my examination that when I signed that paper and handed it to Sisson he said, "Is this the truth, the whole truth, and nothing but the truth?" *holding that blank piece of paper in his hand* which I had requested him to transcribe.

I was not sworn *until the examination was over*, and I handed to him that blank sheet of paper, then he said, "Is this the truth, the whole truth, and nothing but the truth?"

Q. And that is your statement now in regard to it?—A. That is. That is my statement. That is the only swearing that was done in the matter.

Before Dahlgren's testimony is further examined, it may be as well to refer to the testimony of ex Consul Sisson in regard to the manner in which Dahlgren's deposition was taken. Sisson, who was subpoenaed on behalf of the company, testified before the committee, on that matter, as follows (*ibid.*, pp. 792, 793):

By Mr. KENNEDY:

Q. Have you examined the original deposition of Dahlgren that is now on file in the Department of State?—A. Yes, sir.

Q. When did you first see that document?—A. When did I first see it?

Q. Yes; I mean the 18 pages of which it is now composed?—A. It was made out in my consulate.

Q. Now, will you state the circumstances attending the taking of that deposition? I mean the signing of it by Dahlgren, his oath to its truth so far as you are con-

cerned.—A. Well, Mr. Dahlgren and Mr. Adams, Mr. Peña and I think Governor Galán, came up to the consulate for the purpose of making out an affidavit.

By the CHAIRMAN:

Q. Now, do you mean an affidavit, Mr. Sisson, or a deposition?—A. I do not mean an affidavit, I mean a deposition.

Q. In this La Abra case?—A. In this La Abra case. And they sat down in the office there and went to writing.

Q. You say they went to writing. Who went to writing?—A. Mr. Peña did the writing; the interpreter. Adams and Dahlgren were discussing the matter.

By Mr. KENNEDY:

Q. What time of day did these gentlemen whom you have named come to the consulate?—A. Oh, along in the morning sometime. I can not tell exactly what hour they did come.

Q. Well, now, proceed.—A. Well, Mr. Peña went to draw up the paper and they talked it over. I was out and in the room while they were at it, and finally *it was finished and all written out*. I went in there then and *swore Mr. Dahlgren*, and *it was read over to him*.

Q. You mean this identical deposition?—A. I mean *this identical deposition* that is in the State Department to-day, or was yesterday.

By the CHAIRMAN:

Q. You examined it through, did you?—A. I did. I swore him—the usual form of oath that was attached there to it—and after it was all through he signed it right there. Mr. Peña witnessed it right there. Then I put my oath to it.

By Mr. KENNEDY:

Q. That is, the certificate?—A. I mean my certificate. Then I signed it and put the seal of office to that. Then I turned it over to *Mr. Danglado*, who put the ribbons through it in the form you see. You see how it is done there, put through and through, brought back, sealing-waxed about the top of it, and he held it up while I put the stamp on that sealing-wax. Mr. Dahlgren, as soon as he signed it, went off.

After reading to Sisson, from the record, Dahlgren's testimony, already quoted, that he had signed a blank sheet of paper, etc., the ex-consul's examination was continued as follows (*ibid.*, p. 794):

Q. Now, Mr. Sisson, what have you to say to that statement of Dahlgren so far as it concerns you?—A. I can say that *he signed no blank sheet at all* there to my knowledge. *What he signed was this deposition of his*. What he and Adams did and talked about—they talked a great deal—I can not tell, but *this was the result of their work*, was the making his deposition there.

Q. Now I read again to you:

By the CHAIRMAN:

Q. There is one part of that you have not answered. He states there that he makes some declarations to you. What do you say about this?

By Mr. KENNEDY:

Q. I will read that again to him:

“I will sign a blank sheet of paper and put it in your possession as consul, as between two consuls; you are to transcribe these notes and retain the original, and hand that signature with the transcribed sheets ahead of it to General Adams as my testimony.” Sisson said he would do it.”

Now, you have just said that Dahlgren never signed any blank sheet of paper in your consulate to your knowledge, and the chairman invites your attention to what Dahlgren says he said to you about transcribing the notes and your promise to do that. Is that true?—A. No, sir; I don't recollect any such thing.

By the CHAIRMAN:

Q. No, but do you deny it?—A. *I do deny it*; yes, sir.

Q. You say it is not true?—A. *I do*.

No affidavit was ever taken there unless it was written out in full as a deposition.

By the CHAIRMAN (*ibid.*, p. 795):

Q. Is that your reason for saying that Dahlgren has made a false statement, that you never do business in that way, or do you state it as your recollection in connection with this particular paper?—A. *I state that as a recollection*.

Q. In connection with this particular paper?—A. *Yes*.

Q. That he did not sign a blank sheet at all, but *signed the deposition after it had been filled out, and only after it had been filled out?*—A. *That is what I say.*

By the CHAIRMAN:

Q. Wait one moment; I wish to ask him a question. This document that you saw in the State Department was drawn up, you say, in Peña's handwriting?—A. Yes.

Q. Was that read over to Dahlgren in your presence?—A. Yes.

Q. Who read it to him?—A. Peña, I think, and I think I read some of it myself.

By Mr. KENNEDY (*ibid.*, p. 799):

Q. You say that every word of the deposition that is now in the State Department was read to the witness in your presence before he signed it?—A. That is what I intend to say.

The consular clerk corroborates Sisson.

It will have been noticed that Sisson said that Dahlgren's deposition immediately after he signed it had been turned over to Mr. Danglada, who put the ribbons through it and held it up while the consul put the stamp on the sealing-wax. Sisson had previously testified that his consular clerk was Domingo Danglada, a Mexican, who spoke Spanish, English, and French. After Dahlgren had been examined by the subcommittee, counsel for the company made inquiries in San Francisco for Peña—the man who read Dahlgren's deposition to him and subscribed it as witness—in order to have him subpoenaed, but found that he was dead. It was discovered, however, that Danglada was still living at Mazatlan, and when the company's counsel requested that he should be subpoenaed (agreeing to bring him to the boundary line between the two countries), the following telegraphic correspondence was admitted in evidence by consent in lieu of his personal appearance (*Ibid.*, p. 938):

Mr. FOSTER. Before you adjourn we will answer the opposition that we reluctantly, and in order to avoid any excuse for further delay in this investigation, will admit that Danglada, if present, would swear to this statement contained in the telegram.

The CHAIRMAN. I will read it. Shellabarger & Wilson, counsel of La Abra Silver Mining Company, sent a dispatch addressed to Domingo Danglada, at Mazatlan, Mexico, dated February 21, 1889, at Washington, D. C., as follows:

"Dahlgren swears he did not sign his deposition taken September, 1872, before Sisson, about La Abra claim, but signed a blank sheet of paper. Sisson swears that Dahlgren signed said deposition when fully written out, and that it was read to Dahlgren by Peña in your presence, and you tied it up. Which is the truth? Wire at our expense.

"SHELLABARGER & WILSON.

"Via Galveston, February 23, 1889, dated Mazatlan, 23.

"SHELLABARGER, R. J. WILSON, Wash'n, D. C.:

"Sisson is correct. Dahlgren signed deposition when fully written out.

"D. DANGLADA."

It is admitted by the counsel for Mexico that if D. Danglada were here he would swear that he received the telegram above copied and made the answer above copied and would swear that—

"Sisson is correct. Dahlgren signed deposition when fully written out."

Dahlgren's disposition to repudiate everything in his deposition has already been noticed. Although he had sworn that the original draught or "rough notes" comprised "a dozen or two dozen sheets" and that the examination was prolonged and tedious, he scarcely left enough of his deposition in his testimony before the subcommittee to fill a single sheet. He tried to dispute even the most trivial things in his deposition. One illustration of this has already been given; another is fur-

nished below which also shows his shiftiness, his readiness to swear to two conflicting facts (*ibid.*, p. 704):

Q. You have testified as one of the evidences that this is not your deposition—
A. Yes.

Q. Hold on a minute now—that you did not say your family was going to New York as recorded in this deposition; that you said your family was going to San Francisco. Now, I want you to say whether, in the light of what you have just stated, you can swear that you did not say that your family was going to New York as it is recorded in this deposition?—A. I have told you that I did not attach any importance. I said they were going to San Francisco. I did not say where else they were going.

Q. I beg your pardon— A. Well, that is what I say now.

Q. Well, I am not talking about what you are saying.—A. It is an immaterial question.

By the CHAIRMAN:

Q. No, it is not immaterial. It is what you said then. Did you say to that man who took down your deposition that your family were going to New York or going to San Francisco?—A. Well, after an interval of eighteen years, about, *I don't know what I did say*, only that I was going to send them to San Francisco first.

The CHAIRMAN. Well, that ought to be satisfactory.

By Mr. WILSON:

Q. No; one moment further. You have sworn here before the committee, and pointed out as one of the evidences that this deposition is not correct, that they recorded it here that you said that your family was going to New York.—A. Well, I did say San Francisco to General Adams.

Q. Now you swear to that?—A. Yes; *I swear to that now*.

Being asked how he happened to sign that sheet of paper half-way up, he said (*ibid.*, p. 700):

I do not know that.

Q. Why not at the bottom as well as half-way up the sheet?—A. *That never occurred to me.*

But a reason occurring to him just then why it might be prudent to sign a blank sheet for such a purpose near the middle he continued as follows, without a break:

I signed it right there in the middle of the sheet or wherever it is. I do not think I have seen that paper since I put my name on it. I will tell why I did that. I did so thinking that upon this they could put in the certificate of the consul. I knew that something was to be added to it, and signed it up so as to give them room.

He testified in his original deposition that in 1871 he removed certain parts of machinery, which the company had abandoned at Tayoltita, to San Dimas, and used them in the mill belonging to the Durango Company, of which he was superintendent; and in his deposition he claimed to have done this with the sanction of the court (*ibid.*, pp. 402, 403). In his testimony before the subcommittee (*ibid.*, p. 685) he said that the judge declined to give him permission to take these pieces, and that Granger told him (*ibid.*, p. 689) that if the judge would not allow him to take the machinery it would be all right—he (Granger) would allow him, and under that promise he (Dahlgren) took the machinery.

Further examined in regard to this appropriation of property that did not belong to him, he testified (*ibid.*, p. 709):

Q. You had taken a part of this La Abra Company property from that place?—A. Yes, I had.

Q. Will you tell us the property you took away?—A. I took a water-wheel 24 feet in diameter and, I think, 6 feet breast.

Q. What else did you take away?—A. I took some retorts.

Q. How many?—A. Two.

Q. What else did you take away?—A. I took all such machinery as I needed. I can not recollect the pieces, but I took everything I needed to complete my mill at San Dimas.

Q. In other words, you dismantled this mill for the purpose of building up your own?—
A. *I did.*

Q. From whom did you buy that?—A. Santiago Granger.

He was further examined on this transaction (*ibid.*, p. 733):

Q. From whom did you purchase this La Abra property that you took away from there?—A. *I took it.*

Q. Just went and took it?—A. *I took it; yes.*

Q. Did not buy it from anybody?—A. *I paid no money for it, sir.*

Q. By what authority did you take it?—A. *I applied to Judge Quiros for permission to take it, and he denied me, and Granger said: "If he does deny you, I will allow you to go over and take it;" and I did go over and take it, and that is what I did.*

Q. You just went there and carried away property that did not belong to you?—A. *No, sir, I had permission from Granger to do it.*

Q. Where was Granger at the time?—A. *In my employ as book-keeper.*

At this juncture, for some reason, Dahlgren thought it was important to conceal the fact that Granger had been in the employment of the Durango Company at San Dimas prior to Dahlgren's arrival at that place. It had been developed that Dahlgren had been dealing with a man in his own employ for property which that man did not own, and that under a pretended permission from him, and without paying him or anybody anything for it, and notwithstanding the refusal of the judge to sanction his proceeding, Dahlgren had plundered the works. Granger claimed that he had been left in charge of the property by Exall in March, 1868, but he had left Tayoltita and entered the employ of Ralph Martin, Dahlgren's predecessor at San Dimas, as book-keeper. But Dahlgren did not want it to appear that when he arrived at San Dimas in July, 1870, Granger was already book-keeper for the Durango Company. And in his cross-examination, having forgotten what he had previously said on this point, he dodged and prevaricated as follows:

By Mr. WILSON:

Q. You found him at San Dimas when you went there?—A. *Yes.*

Q. And do you know in whose employ he was when you went there?—A. *I only know from hearsay.*

Q. Well, was he in the employ of your company?—A. *I do not know.*

Q. Was he at work in the office of your company?—A. *I could not tell that.*

Q. When you went there?—A. *When I went there I found him there.*

Q. What was he doing?—A. *I do not know.*

Q. Was he keeping the books of the Durango Company?—A. *No, sir; not that I know.*

Q. Well, what was he doing?—A. *I told you I did not know.*

Q. Well, how soon did you take him into your employ? You found him there?—
A. *Immediately upon my arrival.*

Q. Did you change his employment in any way?—A. *No, sir; I did not. It was over three months after I was there that I took him in my employ.*

Q. Well, he was there working for the Durango Company, was not he?—A. *I do not know.*

Q. Who was keeping the books of the company when you went there?—A. *I could not say that; I did not know.*

Q. Well, who kept the books of the company during the first three months after you went there?—A. *Ralph Martin. I was there three months with my predecessor before he left.*

Q. And Ralph Martin was your predecessor?—A. *Yes.*

Q. And who kept the books for Ralph Martin?—A. *He kept his own books, and I kept my own books. We started in to wind up the business. It took him three months to wind up, and I started in with my own expenditures.*

Q. Well, I want to know whether Granger was doing anything for that company when he went there?—A. *I do not know, I tell you most distinctly.*

Q. Did you see him there?—A. *I did see him there.*

Q. Was he about the hacienda all the time?—A. *No, sir.*

Q. Where was he?—A. *Sometimes in town; sometimes in Tayoltita. When he was out of the hacienda I did not know where he was.*

Q. But after you had been there three months you put him in as book-keeper?—A. *Yes; I took him in.*

Q. And after he had been in your employ about a year, when Quiros had refused you the right to take that property, you got your authority from your employé, Granger, and you went over and carried it away?—A. Yes.

Q. And that is the way you got possession of it?—A. Yes.

Now, it will scarcely be credited after reading the foregoing that the following is to be found in Dahlgren's direct examination (*ibid.*, 679):

When did you first become acquainted with James Granger?—A. When I first reached San Dimas in July, 1870.

Q. What was Granger's occupation at that time?—A. *He had been book-keeper for my predecessor, Ralph Martin, and I retained him in that position during the five years and two months that I was there.*

A more complete contradiction of all his prevarications on that point could scarcely be put into a shorter sentence.

In his motion before the umpire for a new hearing, Señor Avila, the Mexican agent in attendance upon the Joint Commission, alluded to Dahlgren's conduct, as disclosed in his deposition, in stripping the mill at Tayoltita, as follows (Ex. Doc. No. 103, H. R., 48th Cong., 1st sess. p. 94):

Deponent says that in the enterprise of which he is superintendent, the only American one that has escaped the fury of the Mexican authorities, he availed himself of the opportunity by purchasing a part of the property at mere nominal prices from private individuals, in the acquisition of which he was sustained by the judge of the first instance of San Dimas, according to a contract.

Here, then, we have the son of an admiral and (himself) consul taking advantage of robberies, but sustaining the claim to which robbers serve as a cover. If a person who acts in this manner is a reputable witness, the undersigned must then candidly confess that he does not understand the meaning of the word.

What Señor Avila would have said of Dahlgren's conduct if, instead of claiming, as he did in his deposition, that he was authorized by the court to take the machinery, he had testified, as he did before the subcommittee, that he took it notwithstanding the refusal of the court to grant him permission, can readily be imagined.

Before the subcommittee, Dahlgren denied that he had said in his deposition, in answer to the question how his company could remain at San Dimas without disturbance, that they had had disturbances, and difficulties, and had been obliged to submit to all exactions, whether lawful or unlawful, but had found out how to manage and *interest them*, otherwise they would have been compelled to leave like the others without a doubt. That Dahlgren did make such a statement in his deposition and that it was true is made probable by the testimony of his predecessor as superintendent of the company's mines at San Dimas, Ralph Martin, an unimpeached witness, whose deposition on behalf of the company was taken in New York before United States Commissioner Stilwell in June, 1874. On this point Mr. Martin said (Appendix, p. 470):

There was, in reality, no protection given to foreigners in the country, and I never knew any effort to be made by the authorities there to extend protection to *Americans who were at variance with Mexicans*, excepting only in cases where the profits of the mining enterprise were shared by said authorities.

Many more instances of Dahlgren's untrustworthiness could be cited from his testimony before the subcommittee, but another must suffice. It was claimed by counsel for the Mexican Government that certain statements contained in Dahlgren's deposition could not have been made by him, because the facts stated were not within his knowledge; for example, that when he was examined at Mazatlan, on the 18th of September, 1872, he did not know the names of the company's mines, and therefore could not have mentioned them. When Mr. Foster was ex-

examining Dahlgren upon the questions and answers in his deposition seriatim, his attention was drawn to the fourth question and answer, reading as follows (*Ibid.*, p. 651):

Question 4th. Where are said mines and property situated; and of what did said improvements of claimant consist, and in what condition are they now?

Ans. The principal mines of "La Abra Silver Mining Company" are in "La Abra" Mountain, near Tayoltita, in said district of San Dimas. Their names are "El Rosario," "El Cristo," "La Abra," "La Talpa," "El Arrayan," "El Sauce," and some others in that district whose names I have forgotten.

Then his examination was thus continued:

Q. Is that a correct answer to the question as you gave it?—A. No, sir; because I didn't know *what* mines they possessed.

Q. Did you ever know, *by name*, the mines whose names are here given? Did you ever know whether or not they belonged to La Abra Company?—A. No, sir; I knew that La Abra mine belonged to the company. I had been at El Arrayan, but I didn't know the names of the rest of the mines belonging to the company.

Q. And you did not attempt to give the names in that examination?—A. No, sir; nor their condition.

But subsequently, in his reply to a question whether he had testified in his deposition "to anything as to the denouncement of the Rosario mine by Granger" (*ibid.*, p. 653), he replied: "*I believe I did.*" That made three of the company's mines whose names he knew prior to his examination at Mazatlan—"La Abra," "Arrayan," and "Rosario." Further on, his attention was again directed to the names and value of the company's mines, as stated in his deposition, "more particularly to "La Abra," "El Rosario," "La Talpa," and "El Cristo" veins, and to a remark of his in his said deposition that he "should like to own them, and if it were possible to raise capital to work them." Whereupon, forgetting that he had said a short time before that he did not know their names, he replied that *he could have owned them if he had wanted to*, and that he had the means to work them, and then to show how familiar he was with the company's mines, and in what a practical manner, he added (*ibid.*, p. 659):

Some people repeatedly asked me to go over there and *take hold of those mines*, but I always declined.

Q. Why did you decline?—A. Because I sent over my right-hand man to look over the district, and if there was anything good to secure it.

My rule always is to send out my right-hand man to look at a property first, and then if he reports favorably on it I go myself and look at it, and if it is good I take it.

But without this evidence that he had received a report on the company's mines there would be a strong probability supporting his deposition that he knew their names, and in a general way their location and characteristics; for during more than two years prior to his examination at Mazatlan he had been associated intimately with James Granger, who knew all about the mines, and General Adams had been his guest at San Dimas, and had there made examinations of witnesses preliminary to taking their depositions in court. And Dahlgren testified that he "heard the case talked of *pro* and *con* in his hacienda" (*ibid.*, p. 670):

We would sit there of an evening and talk of it.

He had been at San Dimas over two years, and his "right hand man" had made a report on the company's mines before he made his deposition at Mazatlan in September, 1872.

Besides, in referring to his book on the "Historic Mines of Mexico,"

in which the company's mines "La Abra," "Rosario," "La Luz," and "El Christo," are mentioned, he said to the subcommittee (*ibid.*, p. 687):

I have always kept carefully a mining diary, and as I got information about mines I placed it down, tabulated it, and kept it. During the five years I was in Mexico I did that, and finally I got such a mass of data I put it into shape.

It is also to be remarked that in speaking of his frequent visits to the company's hacienda in October, November, and December of 1871, when he was helping himself to the machinery, he said (*ibid.*, p. 685) that nobody at that time was occupying the company's mines. In the earlier part of his examination before the subcommittee (*ibid.*, top of p. 652) he said that he did not know "anything whatever of the mines that La Abra Company abandoned"—alluding to the time when he made his deposition at Mazatlan—but it afterwards appeared, as already observed, from a memorandum in his note-book that two months before he was examined at Mazatlan he had made a personal examination of "El Arayan." It also appeared that he knew his book-keeper had denounced "El Rosario," and that he (Dahlgren) was intimate with Francisco Torres (*ibid.*, p. 686), who worked that mine and "La Luz" in partnership with Granger in 1870 or 1871.

The testimony of ex-Consul Sisson or Domingo Danglada was not necessary to prove that Dahlgren committed perjury in maintaining, as he did before the subcommittee, the truth of his letter to Lines in regard to the manner in which his deposition was taken at Mazatlan. It does not appear that his deposition could ever have been of much importance in the case, so far as the award was concerned, for he did not arrive at San Dimas until July, 1870, more than two years after La Abra Company had abandoned its property, and the great bulk of his deposition was hearsay. It is true that he vouched again and again in the strongest terms for the honesty, intelligence, courage, and truthfulness of his Mexican "mozo," Avalos, whose three depositions, two taken on behalf of the company, and one alleged to have been taken by a Mexican judge in court on behalf of the Mexican Government, are printed in the appendix, and have been already noticed in this report. But Dahlgren's deposition takes its chief importance from the fact that he denied having made it in the form in which it was submitted to the Joint Commission, and that his denial, coupled with his aspersion upon General Adams, was made so prominent in the so-called "new evidence offered by Mexico" so early in the efforts of that Government, through General Slaughter and his subagents, to impeach the award.

The testimony of ex-Consul Sisson and of Domingo Danglada, with Dahlgren's own contradictions and inconsistencies, have destroyed his credibility and relieved General Adams and the company from any discredit or stigma cast upon them by Dahlgren's letter. That Dahlgren's letter was injurious to General Adams, and, reflexively, to the company, is beyond dispute; for in an earlier report by Mr. Edmunds for Mr. Morgan, from the Committee on Foreign Relations, (July 7, 1886), it is said that the evidence submitted by the Mexican Government in the document entitled "Claims against Mexico" shows "that some of the testimony offered by the company to establish its claim before the Commission was *forged* by its agent and attorney, Adams. The reference in that report is to Dahlgren's letter, which was printed therein with the following caption in italics: "*Letter from C. B. Dahlgren to Mr. Robert B. Lines, stating that his deposition in favor of La Abra Silver Mining Company has been forged.*" This charge will now have to be withdrawn

with the other charges falsely accusing General Adams of having been short in his accounts as captain and assistant commissary at the close of the Mexican War, and of having been thrice court-martialed (and, inferentially, disgraced) during his service in the United States Army in the war for the Union.

One of the most remarkable and satisfactory features of the recent investigation was the formal withdrawal of the charges against General Adams, affecting his military record, by one of the counsel for the Mexican Government (Mr. Lines) in the course of his cross-examination. The official documents showing the falsity of the charges reflecting on the personal integrity of General Adams were received in evidence and are printed, with the testimony of Mr. Lines on the subject, on pages 931-934 of the appendix.

It seems to the undersigned that the testimony taken before the sub-committee instead of impeaching the award has shown the strong foundations upon which it rests and has justified the wisdom and equity of the umpire.

The Mexican Government has shown by Colonel De Lagnel in this recent investigation how general and deep-seated were the suspicion and hatred of the United States and its citizens among the population in the vicinity of the mines when he was the company's superintendent in the year 1867; how "pernicious" and dangerous was the character of the local justice of the peace who had established himself on the company's property; on what slight occasion an armed "demonstration" was made against the superintendent and his American employés at the hacienda; how the same thing happened at San Dimas, and how unfounded is the theory of the minority report that events of importance which were not mentioned in the company's letter-press copy-book are not to be credited, although the superintendent testifies to them under oath. The Mexican Government in this recent investigation has shown by Francisco Torres that of all the ores abandoned by the company in March, 1868—from 10,000 to 14,000 cargass—only 500 or 600 cargass remained two or three years after the abandonment, and it need hardly be said that if the ore had been poor it would not have been carried away. The Mexican Government in this recent investigation has shown by Somero and Hermosillo that, in the estimation of one of the most experienced and competent miners in Mexico, La Abra mine is still so rich in undeveloped resources that during the last seven or eight years he has been engaged in tunneling the property—an extensive and systematic operation not yet completed—at a cost of from \$50,000 to \$60,000.

The Mexican Government in this recent investigation has shown by A. B. Elder that one of the most infamous charges it ever made against the company was utterly without foundation or color of excuse; and also that no protection was afforded by the local authorities to the witness himself when the richest of his ores were stolen at La Puerta in 1865, and that it would have been dangerous both for him and the local magistrate if the latter had attempted to enforce the law. The Mexican Government has also put itself under a cloud of suspicion by the testimony of the same witness, and of the "contractor," General James E. Slaughter, and of the detective, Fisher, in regard to the propriety and integrity of the methods it has pursued in its attempts to re-open the award. Instead of showing, as it set out to show in the recent investigation, that the award should be re-opened and the claim readjudicated on the merits, the Mexican Government has shown that the ancient maxim which the House committee, in Mr. Daniel's report, has applied

to this case should be so applied without further evasion or delay: *It is to the interest of the commonwealth that litigation should cease.*

Legal objections to the bill.

The bill (S. 2632) authorizes and directs the Attorney-General of the United States "to bring a suit or suits in the name of the United States in the Court of Claims against La Abra Silver Mining Company, its successors and assigns, and all persons making any claim to the award, or any part thereof in this act mentioned, to determine whether the award made by the United States and Mexican Mixed Commission in respect to the claim of the said La Abra Silver Mining Company was obtained, as to the whole sum included therein, or as to any part thereof, by fraud or false swearing, or other false and fraudulent practices on the part of the said La Abra Silver Mining Company, or its agents, attorneys, or assigns;" and undertakes to confer jurisdiction upon the Court of Claims "to hear and determine such suit, and to make all interlocutory and final decrees therein as the evidence may warrant, according to the principles of equity and justice, and to enforce the same by injunction or any proper final process, and in all respects to proceed in said cause according to law and the rules of said court so far as the same are applicable." The bill also grants an appeal to either party from the Court of Claims to the Supreme Court of the United States, and undertakes to confer jurisdiction upon that court to decide such appeal.

It is provided in the fourth section of the bill "that in case it should be finally adjudged in said cause that the award made by said Mixed Commission, so far as it relates to the claim of La Abra Silver Mining Company, was based upon or obtained through fraud or false swearing, or other false and fraudulent practices of said company, or its assigns, or by their procurement, the President of the United States is hereby authorized to release the Government of Mexico from the further payment thereof to the extent that the same is so declared fraudulent, and to return to said Government any money paid by the Government of Mexico on account of said award remaining in the custody of the United States that has not been heretofore distributed to said La Abra Silver Mining Company, or its successors and assigns, which such court shall decide that such persons are not entitled, in justice and equity, to receive out of said fund".

The fifth section of the bill declares that it shall not be lawful for the Secretary of State, during the pendency of said suit and until the same is decided, to make any further payments out of said fund on account of said award, and that in case said court shall decide in said suit that said La Abra Silver Mining Company, or its successors and assigns, are in justice and equity entitled to any part of said award that shall remain to be paid or distributed, the Secretary of State shall proceed to distribute the same to the persons entitled thereto.

Nature of the question which the bill proposes to submit to the Court of Claims.

Is the question which it is thus proposed to submit to the Court of Claims, and on appeal to the Supreme Court of the United States for decision, judicial and justiciable or political and diplomatic in its nature? The question simply stated is whether an award rendered under such a treaty as that of July 4, 1868, between Mexico and the United States,

by a Mixed Commission, should be opened on account of allegations of fraud in the procurement of the proofs upon which it was founded. Or, in other words, whether the United States, so far as this particular award is concerned, should in comity and justice release Mexico from its solemn engagement (in the language of the treaty) "to consider the result of the proceedings of this Commission as a full, perfect, and final settlement of every claim." What department under our form of government has the power to make a final answer to that question whether Mexico should be released from her engagement in this case or not? Is that power lodged in the Executive or the Judiciary; or can it be exercised by either? Perhaps an exact definition of the thing done and the authority exercised in rendering the award will be of assistance in answering the question. In rendering the award it was determined that the Mexican Government should pay to the Government of the United States, for the benefit of La Abra Company, a certain sum of money. This determination was not the act of either Government alone. The Commission was the creature of both Governments; the umpire was the chosen agent of both Governments acting through their respective Commissioners who chose him.

The particular thing that was ascertained and determined in the Abra award was ascertained and determined by the two Governments acting conjointly by virtue of and in accordance with the treaty. The judgment rendered—the coin issued from this international mint bears the stamp of both Republics. An award may be the fruit of a treaty, and it may be provided in that treaty that the award shall be final, and yet the award may not have an international character. The ascertainment of what amount is due to A or B may be made by a purely domestic agency, as in the cases of the Chinese claims under the treaty of 1853, or the Mexican claims that were decided under the treaty of February 2, 1848 (Guadalupe-Hidalgo), both of which treaties left the ascertainment and determination of the amount of the particular claims to the United States acting exclusively by its own agents. Article 15 of the aforesaid treaty with Mexico contained the following provisions:

The United States, exonerating Mexico from all demands on account of the claims of their citizens mentioned in the preceding article, and considering them entirely and forever canceled, whatever their amount may be, undertake to make satisfaction for the same, to an amount not exceeding three and one quarter millions of dollars. To ascertain the validity and amount of those claims, a board of commissioners shall be established by the Government of the United States.

The award to Gardiner by the commission appointed under that treaty was a purely domestic act. The Government of the United States had a direct pecuniary interest in that award; the Mexican Government had none. It was not only the right of the Government of the United States, but a duty it owed to all its citizens, to refuse to pay that award on proof that it was obtained by corruption, and it was in the courts and the courts only that the Government could enforce its rights and obtain justice against the wrongdoer after the award was rendered. The wrongdoer was first indicted for perjury and then was made defendant in a civil suit to annul the award for fraud. It has been already observed that Mexico was not represented in the tribunal by which that award or the Atocha award was rendered, and that these awards were not stamped with the international character which distinguishes La Abra award. They were the work of a purely domestic agency, and founded entirely on *ex parte* proofs. No evidence whatever was taken in opposition to the claims. The report of the majority of the committee and the citation in that report from the views of counsel for the Mexican

Government overlook this vital distinction. Neither the committee nor counsel mention a single instance of the submission of an award of a mixed or international tribunal to a domestic court of either of the high contracting parties for review. An international award—an ascertainment and determination of a particular claim by a *mixed* commission—*can* be reviewed, but it can be reviewed only by the concurrent action of the two sovereign powers who were parties to it. The question whether such an award ought to be reviewed is a question for the two nations communicating with each other through their constitutional organs of communication; in other words, the question is diplomatic and not judicial.

This was the conclusion reached in June, 1880, by the Judiciary Committee of the Senate in reporting against the passage of a bill authorizing the Court of Claims to investigate this same La Abra case. The committee, consisting of Allen G. Thurman, chairman; Joseph E. McDonald, Thomas F. Bayard, A. H. Garland, L. Q. C. Lamar, David Davis, George F. Edmunds, Roscoe Conkling, and Matt. H. Carpenter, held (report No. 712, Sen., 46th Cong., 2d sess.)—

That this would involve an investigation by Congress of facts of an international character which, in the opinion of the committee, properly belong to the Executive Department, and which it was the intention of the fifth section of the act of June 18, 1878, to leave with the Department.

The bill under consideration proposes to withdraw these two claims from the dominion of international jurisdiction, and place them before a tribunal organized and existing solely by virtue of the laws of this country, and in this way it would seem designed to avoid the opening up of other questions of complaints that are known to exist on behalf of citizens of the United States, whose claims, for various causes, failed to receive favorable consideration by said commission under the treaty creating the commission.

The second article of that treaty bound the two Governments absolutely and conclusively by the final awards of the Commission and umpire in all cases coming within its provisions, and it would seem right that if it is to be set aside as to any of the claims, *it ought to be by a new convention* in which provision should be made to do justice to all claims.

The constitutional inability of Congress to make justiciable what is not justiciable, or to withdraw from the judiciary what is justiciable, is expressed by Mr. Justice Curtis in rendering the opinion of the Supreme Court of the United States in *Den vs. The Hoboken Land Improvement Company* (18 How., 285), as follows:

To avoid misconstruction upon so grave a subject, we think it proper to state that we do not consider Congress can either withdraw from judicial cognizance any matter which from its nature is the subject of a suit at the common law, or in equity or admiralty; nor, on the other hand, *can it bring under the judicial power a matter which, from its nature, is not a subject for judicial determination.*

This point will be found presented more at large, with the authorities, in some extracts from a brief of Messrs. Shellabarger & Wilson, of counsel for the company, which will be printed in an appendix to this report.

The bill would encroach on the power of the President to distribute the funds, and would revive in the courts a controversy that has been settled between the two nations.

It is assumed in the majority report that the President's power to lawfully withhold distribution of the funds received from Mexico in payment of these awards comes from Congress by virtue of the act of June 18, 1878, and that he has no authority to distribute these funds because of an alleged reservation of the control of their distribution on

the part of Congress indicated by the words, "until Congress shall otherwise direct," which are to be found in that act; and the majority report intimates that this view is supported by the decision of the Supreme Court in the case of *Frelinghuysen vs. The United States* (110 U. S., 63).

The question involved in that case was whether the President had any right to withhold the funds paid in by Mexico from any of the awardees—whether he had discretion in the promises or a merely ministerial duty to discharge. This was the only question before the court, but in deciding that question the court was obliged to consider certain other questions upon which the decision of that particular question depended. The act of June 18, 1878, was carefully considered by the court because it was relied upon by the counsel for the Government as a justification for the refusal of the Secretary of State to distribute the funds which he had received from the Government of Mexico on account of the Weil and La Abra awards.

Why legislation was necessary to carry the treaty of July 4, 1868, into effect.

It appears from a letter addressed by Mr. Evarts, while Secretary of State, on the 6th of November, 1877, to Mr. Swan, who was chairman of the Committee on Foreign Affairs of the House of Representatives, that no action on the part of Congress was considered necessary to authorize the President to distribute the funds that had been and were thereafter to be received from Mexico under the treaty of July 4, 1868. Such distribution, Mr. Evarts said, "*would be according to the practice of the Government,*" but some legislation was necessary *to make good to the fund* the amount with which the Government of the United States was charged, i. e., the sum total of all the awards which had been rendered by the Mixed Commission in favor of citizens of Mexico against the United States, and which under the treaty had been deducted from the sum total of awards in favor of citizens of the United States against Mexico. So we find the act of June 18, 1878, appropriating the amount reserved by the Mexican Government, and also authorizing the Secretary of State to deduct from the payments received and to be received from Mexico a sum not to exceed 5 per cent. thereof until the aggregate of the amount so deducted should equal the sum of \$114,948.74, being the amount of the expenses of the Commission. Mexico having deducted and reserved the amount awarded to her own citizens from the sum total awarded against her in favor of our citizens (who thus, as it were, paid a debt due by their Government to the Government of Mexico), Congress proceeded to "make good to the fund" the amount so reserved, in order that there might be a sum sufficient in the hands of the Secretary of State, with the installments paid to him by the Mexican Government, to pay the amounts awarded to our citizens by the Joint Commission.

The act of June 18, 1878, construed by the Supreme Court of the United States.

It was a portion of the fifth section of the act that the court found it necessary to construe in the case of *Frelinghuysen vs. The United States* (supra). That portion reads as follows:

SEC. 5. And whereas the Government of Mexico has called the attention of the Government of the United States to the claims hereinafter named with a view to a

rehearing; therefore, be it enacted, that the President of the United States be, and he is hereby, requested to investigate any charges of fraud presented by the Mexican Government as to the cases hereinafter named, and if he shall be of the opinion that the honor of the United States, the principles of public law, or considerations of justice and equity, require that the awards in the cases of Benjamin Weil and La Abra Silver Mining Company, or either of them, should be opened and the cases retried, it shall be lawful for him to withhold payment of said awards, or either of them, until such case or cases shall be retried and decided in such manner as the Governments of the United States and Mexico may agree, or until Congress shall otherwise direct.

There is nothing in the opinion of the court, as rendered by the late Chief-Justice Waite, to support the idea of the committee that the President takes his power either to distribute or to withhold distribution of the funds in question from Congress; but, on the contrary, the opinion holds that the President having under the Constitution the initiative in making treaties may, as the constitutional depository of such treaty-making power, inquire into such charges as those made by the Mexican Government in this case and into the propriety of opening such an award with a view of providing for a retrial of the claim by a treaty. "In our opinion," says the Chief-Justice, "it would have been just as competent for President Hayes to institute the same inquiry *without* this request as with it"—alluding to the act in question—"and his action, with the statute *in force*, is no more binding on his successor than it would have been *without*." The court seemed anxious to avoid the idea that in a matter of this sort Congress would undertake to give any *direction* to the President. This appears from the following passage:

The first section of the act of 1878 authorizes and requires the Secretary of State to receive the moneys paid by Mexico under the convention, and to distribute them among the several claimants, but it manifests no disposition on the part of Congress to encroach on the power of the President and Senate to conclude another treaty with Mexico in respect to any or even all the claims allowed by the commission, if in *their* opinion the honor of the United States should demand it.

The court does not tolerate the idea, although there are some expressions in the act which seem to point that way, that Congress intended to *direct* the President either to distribute or not to distribute these funds, or to investigate or not investigate Mexico's charges against these awards. "The fifth section, as we construe it," said the Chief-Justice, "is *nothing more* than an expression by Congress, in a formal way, of its *desire* that the President will, *before* he makes any payment on the Weil or La Abra claims, *investigate* the charges of fraud presented by Mexico, 'and if he shall be of the opinion that the honor of the United States, the principles of public law, or considerations of justice and equity, require that the awards * * * or either of them should be opened and the cases retried,' that he will '*withhold payment* * * * until the case or cases shall be retried and decided in such manner as the Governments of the United States and of Mexico may agree, or until Congress shall otherwise direct.'" The court here has quoted the very words from the act which seem to reserve some power on the part of Congress to "direct" a distribution of the funds in those particular cases at some future time, and the court has said of the fifth section of the act *including those words*, that it "is *nothing more* than an expression by Congress, in a formal way, of its *desire*," etc. Speaking of the act, the Chief-Justice says: "From the *beginning* to the *end* it is, in form even, only a *request* from Congress."

The words, "or until Congress shall otherwise direct," evidently refer to the *withholding of payment*, and not, as has been maintained on the Mexican side, to any alternative method of retrying the Weil or La Abra claims—not, as has been argued to some *domestic* instead of the

international proceeding pointed out by the words of the act, namely, "in such manner as *the Governments of the United States and Mexico may agree.*" This is shown by the repetition of the word "until." The words, "it *shall be lawful* for the President to *withhold payment until* " an agreement for a retrial shall be made *between the two Governments*, or "until Congress shall otherwise direct," were not intended to be imperative, and could not be so construed without involving an encroachment by Congress upon the province of the Executive. The court distinctly held that such withholding was in the President's discretion, without any authority from Congress—as completely *without* the statute as *with* it; that of his own motion he could negotiate with Mexico for a new trial of any or all of the claims, and, *while so negotiating*, and UNTIL *the two Governments ceased to negotiate*, he could withhold the funds from the persons in whose favor awards had been rendered. In the following passages from the late Chief-Justice's opinion the court has made its meaning and the scope of its decision clear beyond question:

From the statements in the answer of Secretary Frelinghuysen in the *Key Case* it appears that further evidence has been found, and that President Arthur, upon this and what was before President Hayes, has become satisfied that the contested decisions should be opened and the claims retried. Consequently, the President, believing that the honor of the United States demands it, has negotiated a new treaty, providing for such a re examination of the claim, and submitted it to the Senate for ratification. *Under these circumstances* it is, in our opinion, clearly within the discretion of the President to withhold all further payments to the relators until the diplomatic negotiations *between the two Governments* on the subject are *finally concluded*. That discretion of the executive department of the Government can not be controlled by the judiciary.

ALL we decide is, that it was within the discretion of the President to negotiate again with Mexico in respect to the claims, and that, as long as *the two Governments are treating on the questions involved*, he may properly withhold from the relators their distributive shares of the money now in the hands of the Secretary of State.

The decision of the Supreme Court is therefore directly opposed to the views expressed in the majority report in regard to the source and extent of the President's power to withhold or to make distribution of the funds received from Mexico on account of La Abra award.

Mexico bound by the result of her appeal to the treaty-making power.

The proper international measures for determining whether "the honor of the United States" required that Mexico should be released from her engagement of July 4, 1868, "to consider the result of the proceedings of this commission as a full, perfect, and final settlement of every claim," were taken by the two Governments, and a treaty for opening the award and retrying the claim was negotiated between the two republics, acting by their Presidents, and duly submitted to the other co-ordinate depositories of the treaty-making power. Thus the question was brought into the forum in which, and in which alone, in the opinion of the Judiciary Committee of the Senate already referred to, it could be finally determined. The Mexican senate might have rejected the treaty instead of ratifying it. The United States Senate might have ratified the treaty instead of rejecting it. The Mexican senate might have thought it was of more account to Mexico to accept the finality of such international settlements than to make them occasions for new disputes. Amendments might have been proposed in either senate. The principle of mutuality might have been applied in the United States Senate in this case as in the treaty with Venezuela, which provides for a review of *all* the claims, as well those that were *rejected*

as those that were allowed by the Caracas commission; for it is to be remembered that charges have been made by citizens of the United States whose claims were disallowed by the Joint Commission that such disallowance was caused by fraud on the part of the Mexican Government.

Mr. Secretary Bayard seemed to be of the opinion on the 6th of May, 1886, shortly after the rejection of the treaty by the Senate, that Mexico ought to accept the decision as conclusive and final, for he said in a communication of that date to the President—

It seems proper here to observe that by the voluntary negotiation of this second treaty Mexico submitted the question (whether these claims should be readjudged or no) to the treaty-making power of the United States, of which it was well known that two-thirds of the Senate was an essential part, and that the relief sought from the effects of the former treaty could only be secured by obtaining such a constitutional majority in its favor. (Sen. Ex. Doc. No. 140, 49th Cong., 1st sess., p. 4.)

Mexico was just as well aware of the constitutional requirement of a vote of two thirds in the Senate as any plaintiff ever was in a suit at law that all twelve of the jury must find for him or he will lose his case. The treaty for the proposed review was pending in the Senate four years and was thoroughly discussed and finally rejected *on the merits*. The question of the number of votes required for the ratification of a treaty has nothing to do with the obligation of Mexico to accept the decision as conclusive. She appealed deliberately and knowingly to the treaty-making power, and if the Constitution had required a vote of three-quarters, or of all the Senators present, Mexico would have been no less bound by the result.

It can readily be understood, however, that no matter how willing the Mexican Government might be to submit to the decision of the forum to which it appealed and to bring the controversy to a close, such a result, although greatly to be desired in the interest of international arbitration and peaceful relations between the two Republics, might be detrimental to the interests of the able and astute agent of the Mexican Government, General James E. Slaughter, of Mobile, Ala., and his various associates, who would fail to recover their compensation, so far as it is contingent upon his success under the contract which he made with the Mexican Government "to undertake the proof of fraud" in this case. It is now nearly twelve years since this zealous and indefatigable agent of the Mexican Government entered upon that undertaking and commenced to gather material for the pamphlet or "petition" which he subsequently circulated among members of Congress, and to employ the subagents whose services have been described in the testimony recently taken by the subcommittee. And while it would be to the interest of both Republics that litigation should cease, it would not be so beneficial to those gentlemen who have labored so hard and so long for their compensation contingent upon the annulment of the award in whole or in part.

Whether the stimulus of the contingent fee of \$68,000, provided for in General Slaughter's contract of March, 1877, with the Mexican Government, has had more or less to do with Mexico's false and libelous charges against the company and its officers, which were disproved in the recent investigation, or with the persistency of the attempts in Congress to open the award since the rejection of the treaty for a retrial of the claim, there can be no doubt as to the improper character of the contract and of the proceedings taken under it, as disclosed by the testimony before the subcommittee, or of the flagrant breach of the treaty and of due candor and good faith between nations, of which the Mexi-

can Government was guilty so soon after the adjournment of the commission. Among all of Mexico's "confidential" communications in this case, she never alluded to her contract with General Slaughter of Mobile, Ala., under which, by him or his subagents, so many of the false charges in these communications were really made.

It has been already observed that the majority report makes no allusion whatever to the contract between General Slaughter and the Mexican Government; but the report seeks to cast discredit on the award in connection with the fact that more than a third of the amount—i. e., the sum already distributed—has been expended by the company in paying the expenses incurred in the prosecution of the claim. There is nothing unusual or unlawful in this. Such claims, whether against the United States, like the French spoliation claims, or against foreign governments, like the claim of La Abra Company, are generally prosecuted for compensation contingent upon the result. In this case two journeys to Mexico, and much traveling and labor in that country of the most difficult and dangerous kind, were necessary to obtain the evidence of the company's transactions and of the conduct of the local authorities in the mountainous and isolated district of San Dimas. Then there were the proceedings before the commission, in which the company was represented by distinguished and able counsel; and afterwards, the motion for a new hearing before the umpire, in which the late Jeremiah S. Black was retained as special counsel for the company. The work done by and on behalf of the company from 1869 to 1876 in establishing and defending its claim was enormous, and the company having lost all its property in Mexico was obliged to make the best arrangement it could for the prosecution of its case. But this is a very different thing from the conduct of the Mexican Government in employing a citizen of the United States, under such a contract as that with General Slaughter, upon a contingent compensation "to secure the necessary testimony" to subvert an award to which Mexico had solemnly bound herself by treaty "to give full effect" "without any objection, evasion, or delay whatsoever," and in respect of which she was negotiating with the United States through the proper diplomatic channels at the time of the employment. If General Slaughter had been a distinguished lawyer or diplomat, his contract with the Mexican Government would have been no less improper and reprehensible, but his description of himself (Appendix, p. 912), as "a contractor in the improvement of rivers and harbors and railroads, etc.", domiciled in Alabama since 1870, makes his employment for the work to be done in *Mexico* and in *Washington*, as specified in his contract, a most singular and significant act on the part of the Mexican Government. The text of the contract will be found in the appendix to this report.

There are other objections to the bill, notably that it seeks to change the established principles of law governing the opening of judgments and decrees, and that it might subvert La Abra award in whole or part for causes which would not be allowed to disturb a judgment or decree of a municipal court. A statement of these other objections will be found, with the authorities sustaining them, in extracts from a brief of counsel already referred to in an appendix to this report.

It is now nearly three years since Mr. Secretary Bayard, in the communication already cited, invited attention to "the *present status* of these claims (awards) and the *duty of the Executive* under an *existing treaty*, to which the force and effect of *paramount law* is given by the *Constitution*, in the event of the adjournment of the two houses without further action in reference thereto." In the light of this suggestion

and of the opinion of the Supreme Court in *Frelinghuysen v. The United States*, and of the report of the Judiciary Committee of the Senate on a similar bill, and of the action of the Department of State in twice making distributions on account of La Abra award in different administrations, notwithstanding the act of June 18, 1878, it seems clear that the President has never been under any obligation to wait upon Congress in this matter. He should have distributed the money to the persons to whom it belonged as soon as the treaty for a review of the contested awards was rejected by the Senate, unless it was his intention to negotiate another treaty, involving a retrial of the company's claim. An evasion of an executive duty is hardly less dangerous than an act of executive usurpation. The bill should be indefinitely postponed, the controversy closed, and the treaty executed by the distribution of the funds in hand to the credit of the award.

APPENDIX.

OBJECTIONS TO THE BILL (S. 2632).

The bill is an attempt at special legislation in this, that it would change the rules of law governing the opening of judgments and the granting of new trials.

[Extracts from a brief submitted by Messrs. Shellabarger & Wilson, of counsel for La Abra Company, to the Committee on Foreign Relations, and printed for its use, May 2, 1888.]

The proposed suit, as defined by the pending bill, is one which proposes to supply Mexico, in her attack upon this award, with *rules of law*, in aid of her attack, that are not afforded to *any other* suitor in *any other* case, either in England, or this country, or any civilized nation.

In Cooley's Constitutional Limitations, pages 391 and 392, and in note 2, the salutary rule of law upon this subject is thus stated:

"On principle, it can never be within the bounds of legitimate legislation to enact a *special law*, or to pass a resolve *dispensing with the general law in a particular case*, and granting a privilege and indulgence to one man by way of exemption from the operation and effect of such general law, and leaving all other persons under its operation.

"Such a law is *neither just nor reasonable* in its consequences. It is our boast that we live under a government of *laws* and not of men; but this can hardly be deemed a blessing unless those laws have for their immovable basis the great principle of constitutional equality. Can it be supposed for a moment that, if the legislature should pass a *general law*, and add a section, by way of *proviso*, that it should never be construed to have any operation or effect upon the persons, rights, or property of Archelaus Lewis or John Gordon [in this case *La Abra*], such a proviso would receive the sanction or even the countenance of a court of laws?"

This *special aid* and favor, establishing rules of trial and adjudication in favor of Mexico and against the American citizen, which this bill proposes, but which is denied to all other litigants, is this: It is perfectly settled law, as laid down in *The United States vs. Throckmorton*, 98 U. S. R., 61 (and in effect repeated in 101 U. S. R., 947; 111 U. S. R., 520, and 112 U. S. R., 32), that no fraud will set aside a judgment or award, except (to here quote the words of the Supreme Court), "those which are *EXTRINSIC* or *COLLATERAL* to the matter tried, and not a fraud which *was in issue* in the former case."

It has been claimed that this rule of evidence asserted in *Throckmorton's case*, 98 U. S. R., 61; also in 101 U. S. R., 477; 111 U. S. R., 520 and 112 U. S. R., 32, has been in some way qualified or overruled in *Minor* against *The United States*, 114 U. S. R., 233. This is an utter mistake, and the law of *Throckmorton's case* (*supra*) is as firmly fixed as any principle of our law. This case of *Minor's* re-affirms, adheres to, and repeats the law as above cited from *Throckmorton* (see this in 114 U. S. R., 241 and 242). And *Minor's* case simply holds that, in an *ex parte* proceeding before the land officers, where there is no adversary element in the case, where witnesses are not examined and cross-examined, but everything is on one side, and a fraud is thus perpetrated in securing a patent, there the principles of the *Throckmorton* case do not apply.

But we submit that it is too late in the history of international awards for any one, even though having the reckless courage of Mexico, to assert that an international trial, secured through an international treaty, where the commissioners are sworn as quasi judges, where testimony is taken upon examination and cross-examination, and where the right for *both sides* to appear by counsel is secured, as is done by the second article of the treaty under which this award was made (see treaty of July 4, 1868, volume *Public Treaties of The United States*, 510), and where the treaty makes the decision of the commissioners or umpire "absolutely final and conclusive upon each claim decided," is a mere *ex parte* and non-judicial proceeding, like the one described by Justice Miller (on p. 240, 114 U. S.) in *Minor's* case.

The treaty itself makes the trial strictly one *inter partes* and adversary; and the testimony taken in this one case of La Abra, upon examination and cross-examination (and which has been printed in book form and was presented to committees of Congress and is now accessible to the Senate committee), forms an immense mass, the mere printing of which cost the claimant about \$1,500. And as to the decision reached in the case being a judgment of an international court the law is equally settled. On this point the language of the Supreme Court, in the most elaborately-considered case regarding such an award ever decided by that court, is that "their" (the commissioners') "decision within the scope of their authority is conclusive and final" (*Comegys et al. vs. Vasse*, 1 Peters, 212).

In *Judson vs. Corcoran* (17 How., 612) the same court decides that these international trials are so thoroughly adversary and judicial in their nature as that they pass the legal title to estates decreed or adjudged thereby.

The finality of such judgments as these is again repeated in the case of *Key vs. Frelinghuysen* (110 U. S., 72).

Observe that, so far as the point of finality is concerned, it is here alluded to not for the purpose of showing that a treaty can not set aside this award, but simply for the purpose of establishing the grade, or rank, or class, or dignity to which these decisions belong; that they are not *ex parte*, as was the decision in *Minor's* case, but are pre-eminently adversary, and judicial, and final.

But this present bill carefully, and on purpose, proposes to ignore and abolish this rule, and not only to retry the question of alleged fraud, which was in issue before, and was tried by the commissioners and by the umpire, Sir Edward Thornton, but it proposes to overthrow that award either in whole or, at least, in part, provided any part of it was influenced in its procurement by, not *perjury*, but any "false swearing" (see sec. 1 and sec. 4). So that the effect of this bill is, first, to supply, in the United States, a champion to fight Mexico's battles and pay her expenses; and then it proposes to set aside this award, if its procurement was in any degree produced by "false," though perfectly *honest*, opinions, regarding value, or the like. And the committee will never forget that it is not pretended, and never will be, that the time given to Mexico, by the United States, for procuring evidence of said alleged fraud (more than five years during which the Commission was in session) was not ample, or that the trial was not perfectly fair and entirely free from any "extrinsic fraud," preventing or tending to prevent a fair trial of the issues.

The bill would set the award aside for an alleged exaggeration of damages, which the House Committee on Foreign Affairs in the Forty-ninth Congress found to be not proved by Mexico's so-called "new evidence."

Our next point is that this bill proposes to set aside the award, not upon the ground that this property of the American claimant was not taken by Mexico, but upon the ground that the damages were *exaggerated*.

The utmost that was asserted by Mr. Evarts, in the statement which is, in part, quoted in the first "whereas" of this bill, was that there was evidence tending to show that the damages were "exaggerated," and only exaggerated. And we are glad, on this point, to be able now to state that, in his last official communication on the subject to the President, the present Secretary of State explicitly adopts and emphatically repeats the conclusion of Mr. Evarts, to wit, that this is only a case of alleged "exaggeration" of damages.

This letter of Secretary Bayard, dated 28th of February, 1883, and found in Executive Document No. 109, Fiftieth Congress, first session, can not, we regret to say, be regarded as friendly to the American side of this controversy; and yet, in this last communication, the Secretary has the justice to state as follows (see page 6):

"Nor can the payment, by Mr. Evarts, of certain installments of La Abra award be regarded as inconsistent with his recommendation of investigation in that case, since the allegations of fraud in relation thereto (La Abra award) affect only the measure of damages, and not, as in the Weil case, the question whether any ground of claim ever existed."

Here, then, confessedly, the only objection to the award is that the damages were too large, and yet on this point, at the last Congress, a committee of the House, after full investigation, finds that the damages are amply justified by proofs which remain unimpeached by Mexico's so-called "new evidence." We quote the words of the majority of the committee, which we confidently submit are fully justified by the testimony, a summary of which will be found cited in the views of the minority, embodied in Senate Report No. 1454, first session, Forty-ninth Congress, at page 11 *et seq.*, to which, and to the book of evidence there cited, we beg the attention of the committee.

The finding of the House committee, referred to above, upon this sole question of

exaggerated damages, is stated by Mr. Daniel in his report (No. 3474, H. R., Forty-ninth Congress, first session, page 29) as follows:

"But this remains, when all that can be said in favor of the interference proposed has been considered, *that there was ample evidence before Sir Edward Thornton, that is not impugned by any new evidence, to have sustained and warranted his award*; that the award did not embrace damages on account of the items that have been surcharged or apparently falsified; that that award was far below what was claimed; that it was far below, in amount, the damage which, in the opinion of unimpegned witnesses, the claimant's company suffered; that it did not embrace speculative damages; that the mistreatment of the company, by Mexican officials and people, is proved by their own testimony; and that, conceding all that, by reasonable intendment, the newly-discovered evidence proves, the award made had ample foundation in testimony not successfully impeached, and was not in excess of fair compensation for losses suffered, according to that testimony. " "Mexico had full and fair hearing. The great mass of cases was decided in her favor, and the only maxim which we conceive is now wisely applicable to this claim is that which tells us it is to the interest of the Commonwealth that litigation should cease."

The bill would submit a political question to the courts.

The next point we desire to submit is that the bill in the provision attempting to give jurisdiction to the Supreme Court is clearly unconstitutional, because it is an attempt to submit a *political* as distinguished from a *judicial* question to the judgment or decree of the Court of Claims, and, on appeal, to the Supreme Court of the United States.

On this point we wish to, if possible, make the matter plain. Our point is not that the United States can not sue a wrong-doer for the recovery back of moneys fraudulently obtained from the Government. It is abundantly settled that such suit can be maintained. Neither is it our present point that the "finality" given to an international award by treaty is such that the award could not have been attacked by a *proper* suit, brought by the *proper* party, and conducted under the known rules of law applicable in such a case. Nor is it our present point that Mexico could not, at the proper time and before her appeal to the proper diplomatic forum, where she has just been defeated, prosecute a suit to determine whether the Abra award, made by the Mixed Commission, was obtained by such fraud as would, on legal principles, overthrow or justify the re-opening of the award. But, on the contrary, the present point is this, that the question which the pending bill proposes to submit to the courts for trial is, in substance and legal effect, as to what the President and Secretary of State shall do with the money now in the possession of the Secretary, and hereafter to come into his hands, paid in by Mexico upon the said award.

As to this, keep, now, please, carefully in mind the following preliminary suggestions, bearing upon the present point:

First, that in the paragraph by Mr. Evarts, recited in the first part of the preamble to this bill, it was, by Mr. Evarts, distinctly declared that neither international law, honor, nor equity demanded or permitted a new international trial, such as that named in the fifth section of the act of 1878; and he, in addition, there stated that the investigation which was needed was simply an *ex parte* investigation by the United States, through its own instrumentalities, for the purpose of ascertaining whether in fact the damages had been "exaggerated." The thing, therefore, recommended by Mr. Evarts in the passage quoted in the preamble of the bill, was not at all a suit "at law or in equity," within the sense of these words, as embodied in article 3, section 2, of the Constitution of the United States, declaring that "the judicial power" shall extend to all cases in law or equity arising under this "Constitution," etc. On the contrary, he had just discarded the right to resort to an international trial *inter partes*, upon the case as it then stood before him; and the further and more thorough investigation which he suggested, and for the means of making which he said that the Executive was dependent upon Congress, was, as we understand his meaning, not only to be *ex parte*, but was intended merely to satisfy the conscience of the United States, by removing doubt, and to enable the Executive to determine definitively what further action, if any, might be required. We respectfully submit that this further investigation has now been thoroughly made. No extra-judicial examination could be fairer or more thorough than that which was made by the House committee last session, from whose majority report, ten to three, we have already quoted. Nor was it *ex parte*. The Mexican Government was represented by its distinguished and accomplished agent, Mr. Foster, and learned counsel besides; and had every possible advantage at the different sessions in presenting its case, for many matters on its side were considered which would be excluded by the rules of law at a regular trial.

Next carefully observe that the United States does not and never did pretend to have the slightest *properly* interest in this money, and which is requisite to enable it to sue touching the money. Therefore, the suit which is to be prosecuted under this

bill is, in its characteristics and objects, a *political*, as distinguished from a *judicial*, inquest, precisely like the one recommended in the passage from Mr. Evarts, partly quoted in the preamble to this bill; and is a suit, in its design and general result, simply *advisory* to our Executive touching its duty regarding this money. And so the bill itself, in certain passages, treats and regards the matter. It does not contemplate or authorize any judgment or decree upon which *process of execution* or other process to enforce the decree is contemplated or is possible. On the contrary, it provides, in section 4, what the President shall do in the event of a certain finding in favor of Mexico; namely, he shall release Mexico, and return certain moneys paid in. And also provides, in section 5, in case the decision is in favor of La Abra, that the Secretary shall pay La Abra the moneys paid in.

It is thus seen that the lawsuit proposed is one by the United States, in regard to moneys in which it has no *property interests* whatever, and is simply the conduit through which the money passes on its way from Mexico to the American awardees. It will be also observed that the proposed suit is not in the nature of "a bill of interpleader," filed by a stake-holder, for direction by the court, as to what shall be done with the money. This is so because, first, it is not proposed to make Mexico a party to this bill; and because, second, the question (as we shall presently see) which party shall get this money is not a *judicial* question in its nature, but a *political* one.

With these preliminaries kept carefully in mind, turn now to the inquiry what the law is as to the possibility of giving the Supreme Court of the United States jurisdiction to decide, or adjudge, or decree, or advise regarding such political questions. And in answer to this last inquiry notice, first of all, that the question proposed to be submitted to the courts has been *finally decided and closed by the action of the treaty-making power in finally rejecting the treaty providing for a new trial*. This being so, the action of the political branch of the Government is conclusive upon the courts, and the courts to which it is proposed to send this case for determination can not decide it otherwise than as it has been decided by the treaty-making, or political, branch of the Government.

In order right here to make plain what we mean, take this illustration: Suppose this bill were, in express words (as it is in legal effect), one directing the Court of Claims, and, on appeal, the Supreme Court, to *decide whether a new treaty ought to be made, providing, as the one recently rejected did, for a new commission and international trial*. Is there anybody that would say that such a question can be submitted to the Supreme Court?

Of course there is not. And yet this is, in effect, precisely what the present bill does, as we have seen. That no such political question, or *non-judicial question*, whether political or not, can be sent to the Supreme Court by an act of Congress, is thoroughly settled. On this point turn first to the opinion by Chief-Justice Taney, found in *Gordon vs. The United States*, reported in 2 Wallace, 561, and then to the opinion in that case found in the appendix to 117 U. S. R., page 698. There this subject is examined with great fullness. And the pith of the decision is embodied in the following statement, from page 702, 117 U. S. R., by the Chief-Justice:

"Nor can Congress authorize or require this court to express an opinion on a case where its judicial power could not be exercised, and where its judgment would not be final and conclusive upon the rights of the parties, and process of execution awarded to carry it into effect."

A question in legal principle like this was submitted to Caleb Cushing, as Attorney-General, and was answered in his opinion of November 25, 1855 (7 Opinions, 599), where he decided what is thus expressed in the head-note:

"The question whether the United States will pay, according to their original tenor, drafts drawn by the Mexican Government under the Macilla convention, or suspend payment at the subsequent request of the said Government, is a matter of POLITICAL and not of LEGAL determination."

The same legal question is decided in scores of cases by the Supreme Court; these holding that the judicial powers and the political powers of the Government must be constantly kept distinct and the one not to encroach upon the other, and that, wherever the *political* department of the Government has settled a non-judicial question (as the political department has settled this, by rejecting a treaty providing for a new trial) in a given way, there the judicial department can not overrule or inquire into the wisdom of that decision. This will be found in, amongst others, the following cases:

Luther vs. Borden, 7 How., 1, 11.

White vs. Hart, 13 Wall., 649.

Phillips vs. Paine, 92 U. S., 132, and the cases there cited.

United States vs. Lee, 106 U. S., 209.

The Exchange vs. McFadden, 7 Cranch, 116.

State of Georgia vs. Stanton, 6 Wall., 50.

Even the case of *Frelinghuysen vs. Key* (110 U. S., 70 *et seq.*) is one where this doctrine of the want of power, even in "Congress, to 'encroach' upon the power of the

S. Doc. 231, pt 2—68

President and Senate to conclude another treaty with Mexico," and to determine whether a new international trial ought to be granted, is more than indicated—is in effect asserted.

After stating that the fifth section of the act of 1878 (20 Stats., 144) provided for a certain distribution, the court (p. 74) adds:

"But it manifests no disposition, on the part of Congress, to *encroach* on the power of the President and the Senate to conclude another treaty with Mexico in respect to any, or even all, the claims allowed by the Commission, if in *their* opinion the *honor* of the United States should demand it."

Then, lower down, the court says:

"From the beginning to the end it is, in form even, only a *request* from Congress to the Executive. This is far from making the President for the time being a quasi judicial tribunal to hear Mexico and the implicated claimants, and determine once for all between them whether the charges which Mexico makes have been judicially established. In our opinion it would have been just as competent for President Hayes to have instituted the same inquiry *without* this *request* as with it, and his action with the statute in force is no more binding on his successor than it would have been without."

If this case, therefore, shows, on this aspect of the matter, anything, it shows that the court regarded the question of granting a new trial to Mexico as a *political* or *diplomatic* one, which even Congress could not interfere with farther than to make a "*request*" as distinguished from a law.

And it results, *a fortiori*, that it is impossible for Congress to send to the Supreme Court, for its decision, this *non-judicial* inquiry regarding what is required of the Executive by considerations of "*honor*," political morality, or public expediency.

A fair retrial is now an impossibility. Death of the company's witnesses.

Our next proposition is that it is flagrantly and manifestly unjust to now overthrow this award by this one-sided and partial trial to be had under rules unknown in all civilized States, and this at a time when all the witnesses that could know anything about this alleged fraud are dead.

The following statement in regard to witnesses now deceased, whose depositions on behalf of the company were filed with the Joint Commission, is taken from the company's letter to Mr. Secretary Bayard, dated October 15, 1887, printed in Ex. Doc. No. 109, Fiftieth Congress, first session.

Among those of the utmost importance to the company who have died are George C. Bissel, a superintendent of mines adjoining La Abra mines; John P. Cryder, a lawyer and miner residing in Mexico; Francis F. Dana, for twenty years a resident of Mexico, and a lieutenant-colonel in the Mexican army in the war of the French invasion; A. W. Adams, the agent of the company in the taking of the testimony of its witnesses; George C. Collins, the president of the company during the period when the claim arose; Thomas J. Bartholow, the first, and Charles H. Exall, the last, superintendent of the company, and the alleged author of the alleged letters constituting the alleged *newly-discovered evidence of Mexico*. Much, and the most important part, of the evidence of these witnesses can not now be supplied, and especially that of the said superintendents. Their testimony as to the newly-discovered evidence, to wit, the letters alleged to be theirs, would be indispensable. Those witnesses just enumerated, who are dead, are the only witnesses who could possibly know anything about the truth or falsity of the newly-discovered evidence upon which, mainly, Mexico has based this demand for a new trial.

Testimony could not now be taken for the company in Mexico.

Another reason is the impossibility of the company now taking testimony in Mexico. The transactions to be proved occurred twenty years ago, and it is nearly twelve years since the award was made. The proposed evidence if taken at all must be sought in a mountainous, almost inaccessible mining district in the State of Durango, and among a semi-barbarous people, which (as is the case in all mining localities) is a constantly changing population. After such a lapse of time in such a locality and among such a people and after the failure of memory, the disappearance and death of witnesses, the taking of such testimony is palpably and literally impossible. Add to all this the enormous expense attending the quest for evidence and the taking thereof, and it needs but be stated to any one having the slightest experience

regarding trials in human courts to make it obvious that the obstacles to the procurement of such evidence (whatever the facts may be) are simply insurmountable.

But if *these* obstacles were not insuperable, the hostility of the Mexican officials would be. Before, when there was comparatively no excitement about the case of said company, other than such as resulted from the fact that the company was American, the quest for evidence had to be made under armed protection to the life of the company's agent, and at the expense of an accompanying armed guard hired at the sea-port Mazatlan. And to deter and prevent any testimony being given in favor of said company, the Mexican judge of that district threatened and intimidated the witnesses who were brought before him by the company's agent; and he declared that he would take no testimony for the company when its attorney was present, and declared that none should be taken in his court that would aid the company; and he incited manifestations of mob and other violence, such as endangered the life of witnesses, attorneys, and others evincing friendliness to the company. Besides all this, its witnesses were spirited away and kept from testifying. All these supremely disgraceful proceedings are matters of record, and are before you in the case. And now, after the hue and cry which has been made about this case, no witness resident in Mexico, and especially in that district, who should hereafter testify the truth in favor of this American company, would be permitted to live in that country, or dare to testify, and no man competent to ascertain and select the proper evidence would hazard his life by going there and attempting to obtain it. The recent foul murder of the superintendent of the mines of an American company (Mr. Baldwin), situate in the same State of Durango, and in the same general locality, "for no other crime than that he was an American," is only one more of the many evidences that the hostility in that district, which expelled the Abra Company, there still bears sway, and with all the fullness of its pristine vigor.

The President's hands are not tied by the act of June 18, 1878.

[Extract from Report No. 1630—Views of Minority—Senate, Fiftieth Congress, first session, p. 112.]

In vindication of this position of the Judiciary Committee that said fifth section was not intended to and does not bind the hands of the State Department regarding the payment out of this money, I now restate some of the grounds in support of that opinion, and, as a matter of saving labor, I state them in the language of counsel, addressed to your committee, in reply to a question from a member of the committee asking whether said section five did not tie the hands of the Secretary of State. That reply was in these words:

"Senator MORGAN. You admit his hands are tied.

"Mr. SHELLABARGER. No; but the President seems to take that view. By no means—we do not admit it."

So far from admitting it, we submit, with very sincere respect, that it is palpable and literal upon the face of section 5 of this act of June 18, 1878 (20 Stats., 145), that it does not, in regard to said matter of paying out said money and executing the said treaty, tie the President's hands. On this point please observe carefully the following things:

(1) That the language of section 5 is expressly put in the shape of a request as distinguished from a command or law. The words are:

"He (the President) is hereby *requested* to investigate any charges of fraud presented by the Mexican Government as to the cases hereinafter named, and if he shall be of the opinion that the honor of the United States, the principles of public law, or considerations of justice and equity, require that the awards in the case of Benjamin Weil and La Abra Silver Mining Company, or either of them, should be opened and the cases retried, it shall be lawful for him to withhold payment of said awards or either of them until such case or cases shall be retried and decided in such manner as the Government of the United States and Mexico may agree upon or until Congress shall otherwise direct."

Thus you see the letter of the statute is, first, only a request to investigate; and, secondly, only a permission or a making of it *lawful* for the President to temporarily withhold payment.

(2) That even in the case of *Key vs. Frelinghuysen*, in which Mexico takes such supreme delight, the court expressly takes the same view of this statute. The court says, in so many words, speaking of this statute, that "*from beginning to end it is, in form even, only a request from Congress to the Executive.*" Thus the court covers by its words "*from beginning to end*" every passage in this statute, including section 5, and says of it that it is only a request (110 U. S., 74).

Then the court, coming more explicitly to this very section 5, says of it:

"The fifth section, as we construe it, is *nothing more* than an expression by Congress in a formal way of its *desire* [not its command in the shape of a law] that the President will, before he makes any payment on the Weil or La Abra claims, investigate the charges of fraud presented by Mexico."

Thus you see the court says precisely what we say about this section 5, that it is not a command of law, but simply a recommendation. Then the court adds, on the same point, same page, regarding this law being only a request, these words:

"In our opinion it would have been just as competent for President Hayes to have instituted the same inquiry without this *request* as with it; and his action with the statute in force is no more binding on his successor than it would have been without."

Then, on top of the same page, the court indicates its opinion that any command by Congress addressed to the President and the treaty-making power would be an encroachment by the legislature upon the Executive power under this treaty.

The court says, speaking of this act of Congress:

"But it manifests no disposition on the part of Congress to encroach on the power of the President and Senate to conclude another treaty with Mexico in respect to any or even all the claims allowed by the Commission, if in *their* opinion the honor of the United States should demand it."

(3) Not only do the letter of the statute and this interpretation of the Supreme Court show the President's hands are not tied by any prohibition against paying this money and executing the treaty, but the concluding sentence of the letter of Secretary Bayard to the President, communicated to Congress in the President's special message of May 11, 1866, shows that Mr. Bayard did not regard his hands as tied by this statute two years ago. At that time he indicated his view of the President's constitutional obligation to execute the laws of the land as follows:

"To relieve the action of our Government from any ambiguity of legislative expression or the Executive from any uncertainty as to the line of duty in relation to the awards in favor of Benjamin Weil and La Abra Silver Mining Company under the treaty with Mexico promulgated February, 1879 (1869), I suggest that the attention of Congress should be earnestly invoked to the consideration of the present status of these claims referred to and the duty of the Executive under an existing treaty, to which the force and effect of paramount law is given by the Constitution is the event of the adjournment of the two houses without further action in reference thereto."

(4) It is equally plain that if section 5 of this act of 1878 ties the hands of the President at all, regarding the execution of this treaty, then the prohibition of payment applies to the whole of the two awards, and not merely to a part. Therefore, when under the administration of the State Department by Secretary Evarts payments were made, and when like payments were made under the administration of that Department by Secretary Blaine, these officers violated the prohibition contained in section 5, if such a prohibition exists.

Contract between General Slaughter, of Mobile, Ala., and the Mexican Government.

This agreement, made this twenty-ninth day of March, A. D. 1877, by and between General James E. Slaughter, of Mobile, Ala., party of the first part, and Señor Don Ignacio Mariacal, minister of Mexico to the United States, party of the second part.

Witnesseth, that the said party of the first part agrees, for the considerations hereinafter named, to *undertake the proof of fraud* in the claim of the La Abra Mining Company against the Government of Mexico, which claim is numbered four hundred and eighty-nine (489) on the docket of the Joint Commission of the United States and Mexico and has been adjudicated by the umpire of said Commission.

To this end the said party of the first part agrees to send an agent to Mexico for the purpose of securing testimony in proof of the fraudulent character of said claim; to pay the expenses of such agent as far as the City of Mexico; and to secure such assistance as may be necessary in preparing the evidence so obtained and presenting the same to the proper authorities of the Government of the United States.

The said party of the second part, *acting for and in behalf of the Government of Mexico*, hereby agrees to secure the payment by said Government of all expenses incurred by the said agent of the party of the first part, after he shall have arrived in the City of Mexico; to see that *all facilities* are furnished by said Government to enable him to secure the *necessary testimony*, and to pay, by draft payable as herein-after specified, one-half of the expense incurred by the said party of the first part in the preparation of evidence and the presentation of the same to the proper authorities of the Government of the United States; provided, that such expense shall not exceed the sum of three thousand dollars (\$3,000.00) American currency.

And the said party of the second part further agrees, in consideration of the services above named, to pay to the said party of the first part, by drafts upon the national

treasury of Mexico, payable in Mexican gold ten months after presentation at said treasury, a sum equal to ten (10) *per centum* of any portion of said claim which may be waived or finally withdrawn by the proper authorities of the Government of the United States, or of its total amount if it be waived or withdrawn in the same manner; said drafts to be drawn by the minister of Mexico at Washington immediately upon the final waiver or withdrawal of said claim or any portion thereof, as the case may be, by said authorities of the United States Government.

In witness whereof we have hereunto set our respective hands and seals this twenty-ninth day of March, A. D. 1877.

JAMES E. SLAUGHTER.
IGNACIO MARISCAL.

INDEX.

| | Page. |
|---|---------------|
| Abstract of claimant's title to La Abra property..... | 331 |
| Certificate of incorporation of claimant..... | 330 |
| Depositions filed by claimant Adams, Alonzo W..... | 483 |
| Alley, Nicholas..... | 407 |
| Avalos, Matias..... | 357, 399 |
| Barraza, Pedro J. (certificate)..... | 397, 398 |
| Bartholow, Thomas J..... | 472 |
| Bissel, George C..... | 350 |
| Bouttier, Charles..... | 380 |
| Chavarria, Jesus..... | 386 |
| Clark, William G. S..... | 367 |
| Cole, John..... | 361 |
| Collins, George C..... | 344, 453 |
| Cryder, John P..... | 374 |
| Dahlgren, Charles B..... | 401 |
| Dana, Francis F..... | 371 |
| de la Peña, Antonio..... | 408 |
| de Valle, Juan Castillo..... | 373, 382 |
| Echeguren, Pedro..... | 409 |
| Ely, Sumner Stow..... | 480 |
| Exall, Charles H..... | 336, 455 |
| Galan, Carlos F..... | 492, 493 |
| Gamboa, Juan Francisco..... | 366 |
| Granger, James (or Santiago)..... | 352, 370 |
| (exhibits referred to by him)..... | 360 |
| Green, Alfred A..... | 340 |
| Loaiza, José Maria..... | 377 |
| Martin, Ralph..... | 466 |
| Mora, Marcos..... | 391 |
| Smith, William H..... | 346 |
| Depositions filed by defendant Acosta, Francisco..... | 443 |
| Aguirre, Bernadino..... | 423 |
| Aguirre, Ramon..... | 415 |
| Arnold, Agasito..... | 446, 450 |
| Avalos, Matias..... | 437 |
| Calderon, Aquilino..... | 416, 438 |
| Camacho, Patricio..... | 413 |
| Contreras, Camilo..... | 440 |
| Contreras, Emilio..... | 446, 448 |
| Delgado, Martin..... | 432, 441, 448 |
| de Valle, Juan Castillo..... | 444, 445 |
| Fonseca, Refugio..... | 416, 420, 434 |
| | 1059 |

| | Page |
|---|-------------------------|
| Depositions filed by defendant Galvan, Benigno | 421 |
| Granger, Santiago (or James) ... 417, 425, 434, 435 | 440 |
| Gurrola, Paz | 442 |
| Gutierrez, Dionisio | 419, 431 |
| Jimenez, Maria Cecelia | 446, 449 |
| Laveaga, Arcadio | 433, 442, 449 |
| (certificate) | 446, 448 |
| Laveaga, Miguel | 446, 450 |
| Manjarrez, Cepomuceno | 417, 426, 446, 447 |
| Manjarrez, Ygnacio | 432 |
| Martinez, Guadalupe | 423 |
| Molina, Leandro | 423 |
| Nunez, Pio Quinto | 419, 436, 446, 450 |
| Rodriguez, Bartolo | 432 |
| Rodriguez, Tomasio | 424 |
| Romero, Julian | 440, 441 |
| Ruiz, Gil | 436 |
| Sandoval, Victoriano | 422 |
| Santos, Petronilo | 421 |
| Serrano, Andres | 426 |
| Sloan, N. A | 435, 438, 441 |
| Soto, Guadalupe | 444 |
| Torres, Jesus | 360 |
| Exhibits referred to in deposition of James Granger on pages 353-356 | 330 |
| Incorporation of claimant, certificate of | 488 |
| Instruction to consul by State Department (in deposition of A. W. Adams) .. | 236 |
| Letters of Bartholow, T. J | 260 |
| De Lagnel, J. A | 302, 332 |
| Exall, Charles H | 318 |
| Garth, D. J | 687 |
| Gillespie, Alex. S | 150 |
| Granger, Santiago (James) | 2, 722 |
| Shellabarger & Wilson | 360, 361, 430 |
| Orders from Mexican authorities to claimant | 483 |
| Rebutting testimony for claimant— | |
| Deposition of Adams, Alonzo W | 407 |
| Alley, Nicholas | 472 |
| Bartholow, Thomas J | 453 |
| Collins, George C | 401 |
| Dahlgren, Charles B | 480 |
| Ely, Sumner Stow | 455 |
| Exall, Charles H | 492, 493 |
| Galan, Carlos F | 466 |
| Martin, Ralph | 327 |
| Record of case of La Abra Silver Mining Company v. The Republic of | |
| Mexico, before the American-Mexican Claims Commission .. | 500 |
| Index to | 935 |
| List of assignments | 745 |
| Testimony of Baldwin, James G | 643, 659, 688 |
| Dahlgren, Charles B | 6, 10, 25, 39, 74 |
| De Lagnel, Julius A | 546, 553, 561, 592, 630 |
| Elder, A. B | 939 |
| Ely, Sumner Stow | 878 |
| Fisher, Thomas | |

| | Page. |
|---|-----------------------------------|
| Testimony of Garth, David J | 111, 127, 145, 171, 224, 824, 826 |
| Hermosillo, Ramon | 543 |
| Kittelle, George W | 766 |
| Lines, Robert B | 922 |
| Sisson, Isaac | 788, 825 |
| Slaughter, James E | 911 |
| Somero, Eugenio | 532 |
| Torres, Francisco | 502 |
| Tuttle, William P | 22 |
| Titles of claimant to La Abra property, abstract of | 331 |
| S. Doc. 231, pt 2—69 | |

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